

**DECLARATION
FOR
TRI-VALLEY SUBDIVISION
(A PLANNED COMMUNITY)**

After Recording in the Nenana
Recording District, Return to:
Tri-Valley Subdivision Homeowners Association, Inc.
P.O. Box 1
Healy, Alaska 99743



TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I - Definitions.....	2
Section 1.1 - Allocated Interests.....	3
Section 1.2 - Association.....	3
Section 1.3 – Board of Directors	3
Section 1.4 - Bylaws.....	3
Section 1.5 - Common Elements	3
Section 1.6 - Common Expenses.....	3
Section 1.7 - Common Interest Community	3
Section 1.8 - Declarant	3
Section 1.9 - Declaration	3
Section 1.10 - Development Rights.....	3
Section 1.11 - Director.....	4
Section 1.12 - Documents.....	4
Section 1.13 - Improvements.....	4
Section 1.14 - Lot	4
Section 1.15 – Lot Owner.....	4
Section 1.16 – Majority of Lot Owners	4
Section 1.17 - Manager.....	4
Section 1.18 - Notice and Comment.....	4
Section 1.19 - Notice and Hearing.....	4
Section 1.20 - Person	4
Section 1.21 - Planned Community	4
Section 1.22 - Plats	5
Section 1.23 - Property	5
Section 1.24 - Rules.....	5
Section 1.25 – Security Interest.....	5
Section 1.26 - Special Declarant Rights	5
ARTICLE II - Name and Type of Common Interest Community; Association and Membership	5
Section 2.1 - Name and Type of Common Interest Community	5

Section 2.2 - Association	5
Section 2.3 - Membership in Association.....	5
ARTICLE III - Maximum Number of Lots; Lot Size; Lot Boundaries	6
Section 3.1 – Maximum Number of Lots and Lot Size.....	6
Section 3.2 – Lot Boundaries	6
ARTICLE IV - Common Elements	6
ARTICLE V – Conveyance or Encumbrance of Common Elements by Association	7
Section 5.1 – Lot Owner Approval.....	7
Section 5.2 – Proceeds of Sale or Loan	7
Section 5.3 – Form of Conveyance and Ratification.....	7
Section 5.4 – Association Contract to Convey	7
Section 5.5 – Subdivision of Parks	7
ARTICLE VI – Maintenance, Repair and Replacement	7
Section 6.1 – Common Elements	7
Section 6.2 - Lots.....	7
Section 6.3 - Access.....	7
Section 6.4 – Allocation of Costs of Repairs.....	8
ARTICLE VII – Development Rights and Special Declarant Rights	8
Section 7.1 – No Reservation of Development Rights.....	8
Section 7.2 – Special Declarant Rights	8
Section 7.3 – Sales Offices and Management Offices.....	8
Section 7.4 – Construction: Declarant’s Easement	9
Section 7.5 – Signs and Marketing.....	9
Section 7.6 – Declarant’s Personal Property	9
Section 7.7 – Declarant Control of Association	9
Section 7.8 – Limitations on Special Declarant Rights	10
Section 7.9 – Interference with Special Declarant Rights	10
ARTICLE VIII - Allocation of Interests	10
Section 8.1 - Allocation of Interests	10
Section 8.2 - Formulas for the Allocation of Interests	10
Section 8.3 - Assignment of Allocated Interests; Effective Date	11
ARTICLE IX – Restrictions on Use, Alienation and Occupancy	11

Section 9.1 – Use Restrictions	11
Section 9.2 – Occupancy Restrictions	11
ARTICLE X – Reserved.....	13
ARTICLE XI – Subdivisions and Relocation of Boundaries Between Adjoining Lots	13
Section 11.1 – Subdivision of Lots.....	13
Section 11.2 – Amendment to Relocate Boundaries	13
Section 11.3 – Costs Borne by Applicants	13
ARTICLE XII – Amendments to Declaration.....	13
Section 12.1 - General	13
Section 12.2 – When Unanimous Consent Required	14
Section 12.3 – Execution of Amendments	14
Section 12.4 – Recordation of Amendments	14
Section 12.5 - Limitations of Challenges	14
Section 12.6 – Special Declarant Rights	14
ARTICLE XIII – Amendments to Bylaws	14
ARTICLE XIV – Termination	14
ARTICLE XV – Assessment and Collection of Common Expenses.....	14
Section 15.1 – Apportionment of Common Expenses	14
Section 15.2 – Common Expenses Attributable to Fewer than all Lots.....	14
Section 15.3 - Liens	15
Section 15.4 – Budget Adoption and Ratification.....	17
Section 15.5 – Non-Budgeted Common Expense Assessments.....	17
Section 15.6 – Certificate of Payment of Common Expense Assessments.....	17
Section 15.7 – Annual Payment of Common Expenses	17
Section 15.8 – Acceleration of Common Expense Assessments.....	17
Section 15.9 – Commencement of Common Expense Assessments.....	18
Section 15.10 – No Waiver of Liability for Common Expenses.....	18
Section 15.11 – Personal Liability of Lot Owners	18
Section 15.12 – Reserves.....	18
ARTICLE XVI – Right to Assign Future Income.....	18
ARTICLE XVII – Persons and Lots Subject to Documents	18
Section 17.1 – Compliance with Documents.....	18

Section 17.2 – Adoption of Rules.....	18
ARTICLE XVIII - Insurance.....	19
Section 18.1 – Coverage.....	19
Section 18.2 – Property Insurance.....	19
Section 18.3 – Liability Insurance.....	19
Section 18.4 – Fidelity Bonds.....	20
Section 18.5 – Lot Owner Policies.....	20
Section 18.6 – Workers’ Compensation Insurance.....	20
Section 18.7 – Directors’ and Officers’ Liability Insurance.....	20
Section 18.8 – Other Insurance.....	20
Section 18.9 – Premiums.....	20
ARTICLE XIX – Rights to Notice and Comment; Notice and Hearing.....	20
Section 19.1 – Right to Notice and Comment.....	20
Section 19.2 – Right to Notice and Hearing.....	21
Section 19.3 - Appeals.....	21
ARTICLE XX – Board of Directors.....	21
Section 20.1 – Powers and Duties.....	21
Section 20.2 – Board of Directors Limitations.....	23
Section 20.3 – Minutes of Board of Directors Meetings.....	23
Section 20.4 – Inspection of Books.....	23
Section 20.5 – Financial Statements.....	23
ARTICLE XXI – Open Meetings.....	23
Section 21.1 – Access.....	23
Section 21.2 – Notice.....	23
Section 21.3 – Executive Sessions.....	24
ARTICLE XXII - Condemnation.....	24
ARTICLE XXIII – Compatible Development.....	24
ARTICLE XXIV - Miscellaneous.....	24
Section 24.1 - Captions.....	24
Section 24.2 - Gender.....	24
Section 24.3 - Waiver.....	24
Section 24.4 - Invalidity.....	24

Section 24.5 - Conflict.....24

Section 24.6 - Rights of Action24

**DECLARATION
FOR
TRI-VALLEY SUBDIVISION
(A Planned Community)**

Preamble

This Declaration applies to the planned community, as defined in AS 34.08, of Tri-Valley Subdivision (A Planned Community), on the Property, which is located in Healy, Alaska and described as:

Tracts F and G, Lots 1 through 19, Block 1, Lots 1 through 31, Block 2, Lots 1 through 29, Block 3, Lots 1, 2 and 4 through 20, Block 4, Lots 1 through 42 and Lots 44 through 50, Block 5 and Lots 1 through 20, 22 through 26 and Lot 28, Block 6 of TRI VALLEY SUBDIVISION, according to the plat filed September 26, 1978 as Plat No. 78-9; Records of the Nenana Recording District, Fourth Judicial District, State of Alaska;

AND

Lots 1 through 6, 7A, 8A, 9A, 9B and South Park Tract of THE REPLAT OF TRACT H, TRI VALLEY SUBDIVISION, according to the plat filed June 24, 1997 as Plat No. 97-5; Records of the Nenana Recording District, Fourth Judicial District, State of Alaska;

AND

Lot 30A, Block 3 of THE REPLAT OF LOTS 30, 31 & 32, BLOCK 3, TRI VALLEY SUBDIVISION, according to the plat filed May 23, 2002 as Plat No. 2002-3; Records of the Nenana Recording District, Fourth Judicial District, State of Alaska;

AND

Lot 21A, Block 6 of THE REPLAT OF LOTS 21 & 27, BLOCK 6, TRI VALLEY SUBDIVISION, according to the plat filed July 26, 2006 as Plat No. 2006-6; Records of the Nenana Recording District, Fourth Judicial District, State of Alaska;

AND

Lot 43, Block 5 of the REPLAT OF LOT 43, BLOCK 5 TRI VALLEY SUBDIVISION, according to the plat filed May 24, 2013 as Plat No. 2013-2; Records of the Nenana Recording District, Fourth Judicial District, State of Alaska;

AND

Lot 3, Block 4 of the REPLAT OF LOT 3, BLOCK 4 TRI VALLEY SUBDIVISION, according to the plat filed October 21, 2013 as Plat No. 2013-8; Records of the Nenana Recording District, Fourth Judicial District, State of Alaska and whose consent is attached hereto;

AND

All roads located within Section 18, Township 12 South, Range 7 West, EXCEPTING THEREFROM the following roads (i) Usibelli Spur Road; (ii) School Road; (iii) roads, whether now existing or created in the future, that are located within Tracts A, B, C, D, E and I of Plat 78-9 (or any subdivisions of each such tract); and (iv) those portions of Carbon Way and Chalcopyrite Lane shown on Plat 78-9 that cross the 180' wide GVEA Transmission Line corridor which is labeled "(Private use transferred by A.R.R. Contract No. 14-25-0003-2921)" on Plat 78-9 (collectively, the "Transmission Line Crossings"). A.R.R. Contract No. 14-25-0003-2921 is now Alaska Railroad Corporation Contract No. 8326;

AND

Those certain easement rights to the Transmission Line Crossings granted pursuant to that certain Access, Roadway and Utility Easement recorded on October 22, 2018 as Reception No. 2018-001209-0, records of the Nenana Recording District, Fourth Judicial District, State of Alaska;

AND

Any other real property that has been or is intended to be submitted by Declarant to the provisions of the Common Interest Ownership Act (Chapter 34.08, Alaska Statutes) as now existing or as hereafter amended.

Declarant, Usibelli Coal Mine, Inc., declares that the property subject to this Declaration shall be held and conveyed subject to AS 34.08, the Uniform Common Interest Ownership Act, and the following terms, covenants, conditions and restrictions.

ARTICLE I - Definitions

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

Section 1.1 - Allocated Interests. The share of the Common Expense liability and the votes in the Association allocated to Lots in Tri-Valley Subdivision. The Allocated Interests are described in Article VIII of this Declaration.

Section 1.2 - Association. TRI-VALLEY SUBDIVISION HOMEOWNERS ASSOCIATION, Inc., a non-profit corporation organized under Alaska Statutes 10.20. It is the Association of Lot Owners for Tri-Valley Subdivision (A Planned Community).

Section 1.3 – Board of Directors. The Board of Directors of the Association.

Section 1.4 - Bylaws. The Bylaws of the Association, as they may be amended from time to time. Neither such Bylaws nor any amendments to such Bylaws need be recorded in the property records.

Section 1.5 - Common Elements. Interest in real or personal property owned by the Association. The Common Elements belonging to the Association are listed in Article IV.

Section 1.6 - 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;
- (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 maintenance, repair, replacement or addition to the Common Elements or any other real or personal property acquired or held by the Association.

Section 1.7 - Common Interest Community. The real property subject to the Declaration for Tri-Valley Subdivision (A Planned Community).

Section 1.8 - Declarant. A person or a group of persons acting in concert who, as part of a common promotional plan, offer to dispose of its interest in a Lot not previously disposed of, or who reserve or succeed to a Special Declarant Right; in this case, Usibelli Coal Mine, Inc.

Section 1.9 - Declaration. This document, including any amendments.

Section 1.10 - Development Rights. The development rights reserved by the Declarant. Declarant has elected not to reserve any Development Rights.

Section 1.11 - Director. A member of the Board of Directors.

Section 1.12 - Documents. The Declaration and Plats which have been recorded and filed, the Bylaws, and the Rules, if any, as they may be amended from time to time. Any exhibit, schedule, or certification accompanying a Document is a part of that Document.

Section 1.13 - Improvements. Any construction, structure, fixture or facility 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 Association, paving, utility wires, pipes, and light poles.

Section 1.14 - Lot. A physical portion of the Common Interest Community designated for separate ownership; each Lot referenced in the Preamble to this Declaration as they may be amended, or as created on subsequent plats of property. A Lot is a "unit" as defined in AS 34.08.990(32).

Section 1.15 – Lot Owner. A Person, including the Declarant, who owns a Lot. Lot Owner does not include a Person having only a Security Interest in a Lot. A Lot Owner is a "unit owner" as defined in AS 34.08.990(33).

Section 1.16 – Majority of Lot Owners. The Owners holding more than fifty percent (50%) of the votes in the Association.

Section 1.17 - Manager. A person, firm or corporation employed or engaged to perform management services for the Common Interest Community and the Association.

Section 1.18 - Notice and Comment. The right of Lot Owners to receive notice of an action proposed to be taken by or on behalf of the Association, and the right to comment thereon. The procedures for Notice and Comment are set forth in Section 20.1 of this Declaration.

Section 1.19 - Notice and Hearing. The right of Lot Owners to receive notice of an action proposed to be taken by the Association, and the right to be heard thereon. The procedures for Notice and Hearing are set forth in Section 20.2 of this Declaration.

Section 1.20 - Person. An individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, government subdivision or agency, or other legal or commercial entity.

Section 1.21 - Planned Community. As defined by AS 34.08.990, a planned community is a common interest community that is not a condominium or a cooperative. In this case, the planned community is Tri-Valley Subdivision, which consists of Lots owned by Lot Owners, Common Elements owned by the Association, and future development area owned by Declarant.

Section 1.22 - Plats. The plats referenced in the Preamble to this Declaration, as they may be amended, which created the Lots in the Common Interest Community. The term also refers to future plats of property within the Common Interest Community.

Section 1.23 - Property. The land and all Improvements, easements, rights and appurtenances which are subject to this Declaration.

Section 1.24 - Rules. Regulations for occupancy of the Lots and use of the Common Elements and for the conduct of persons within the Common Interest Community, adopted by the Board of Directors pursuant to this Declaration.

Section 1.25 – 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 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, pledge of an ownership interest in an Association, and any other consensual lien or title retention contract intended as security for an obligation.

Section 1.26 - Special Declarant Rights. The rights, as defined in AS 34.08.990(30), reserved for the benefit of a Declarant to (A) complete improvements indicated on plats and plans filed with the Declaration; (B) maintain sales offices, management offices, models and signs advertising the Common Interest Community; (C) use easements through the Common Elements for the purpose of making improvements within the Common Interest Community; or (D) appoint or remove any officer of the Association or any Executive Board member during any period of Declarant control. Special Declarant Rights are described in Article VII.

ARTICLE II - Name and Type of Common Interest Community; Association and Membership

Section 2.1 - Name and Type of Common Interest Community. The name of the Common Interest Community is TRI-VALLEY SUBDIVISION (A Planned Community). It is a Planned Community form of Common Interest Community.

Section 2.2 - Association. The name of the Association is TRI-VALLEY SUBDIVISION HOMEOWNERS ASSOCIATION, Inc., a non-profit corporation organized under the nonprofit corporation laws of the State of Alaska.

Section 2.3 - Membership in Association. Every Person who is a record owner of any Lot in the Common Interest Community is a member of the Association. Membership and voting rights in the Association are appurtenant to, and inseparable from, ownership of a Lot.

ARTICLE III - Maximum Number of Lots; Lot Size; Lot Boundaries

Section 3.1 – Maximum Number of Lots and Lot Size. At the time this Declaration is recorded, there are 189 Lots in the Common Interest Community some of which contain more than two acres. The Declarant does not reserve the right to create any additional lots. The Board of Directors has the power to approve a Lot Owner's request to subdivide a Lot provided that all of the resulting Lots created by such subdivision contain at least one acre of land and meet the requirements of Section 11.1 of this Declaration.

Section 3.2 – Lot Boundaries. The current Lot Boundaries are the boundaries of the Lots as shown on the Plats.

ARTICLE IV - Common Elements

At the time this Declaration is recorded, the Common Elements of the Common Interest Community consist of the following portions of the property subject to this Declaration:

- (1) Tract G of TRI VALLEY SUBDIVISION, Plat 78-9,
- (2) the Lot designated as South Park in the Replat of Tract H, Tri Valley Subdivision, Plat 97-5,
- (3) all roads located within Section 18, Township 12 South, Range 7 West, EXCEPTING THEREFROM the following roads (i) Usibelli Spur Road; (ii) School Road; (iii) roads, whether now existing or created in the future, that are located within Tracts A, B, C, D, E and I of Plat 78-9; and (iv) those portions of Carbon Way and Chalcopryite Lane shown on Plat 78-9 that cross the 180' wide GVEA Transmission Line corridor which is labeled "(Private use transferred by A.R.R. Contract No. 14-25-0003-2921)" on Plat 78-9 (collectively, the "Transmission Line Crossings"); A.R.R. Contract No. 14-25-0003-2921 is now Alaska Railroad Corporation Contract No. 8326, and
- (4) those certain easement rights to the Transmission Line Crossings set forth in that certain Access, Roadway and Utility Easement recorded on October 22, 2018 as Reception No. 2018-001209-0, records of the Nenana Recording District, Fourth Judicial District, State of Alaska. Declarant will convey to the Association all of the Common Elements of the Common Interest Community.

Roads that are part of the Common Elements shall remain open to the public and available for transit by vehicles of all types at all times; provided, however, that the Association shall have the right from time to time to close such roads for brief periods of time in order to perform maintenance or repairs thereto.

ARTICLE V – Conveyance or Encumbrance of Common Elements by Association

Section 5.1 – Lot Owner Approval. Portions of the Common Elements (excluding roads) may be conveyed or subjected to a security interest by the Association if persons entitled to cast at least 80 percent of the votes in the Association approve such action.

Section 5.2 – Proceeds of Sale or Loan. The proceeds of a sale and proceeds of a loan secured by encumbering a Common Element are an asset of the Association.

Section 5.3 – Form of Conveyance and Ratification. An Agreement to convey Common Elements or to subject the Common Elements to a security interest must be evidenced by the execution of an agreement, or ratification of the agreement, in the same manner as a deed by the requisite number of Lot Owners. The Agreement must specify a date after which the Agreement will be void unless recorded before that date. The Agreement is effective only upon recording.

Section 5.4 – Association Contract to Convey. The Association on behalf of the Lot Owners may contract to convey an interest in Common Elements as provided in this Article but the contract is not enforceable against the Association until approved as required herein. After approval, the Association has the powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute a deed or other instrument.

Section 5.5 – Subdivision of Parks. The Association, by Board of Directors' approval without a vote of the Lot Owners, may subdivide Tract G of Tri Valley Subdivision and the Lot designated as South Park in the Replat of Tract H, Tri Valley Subdivision, Plat 97-5, to facilitate development of improvements serving the community and construction of a facility to provide offices for management of the Association.

ARTICLE VI – Maintenance, Repair and Replacement

Section 6.1 – Common Elements. The Association shall maintain, repair and replace all of the Common Elements, as necessary or appropriate from time to time, the determination of which shall be made in the sole discretion of the Board of Directors.

Section 6.2 - Lots. Each Lot Owner shall maintain, repair and replace, at his/her own expense, all portions of his/her Lot, including any structures or other man-made Improvements within it. If a Lot Owner fails to maintain and repair his/her Lot, including the yard, fences, pavement, and any structures therein, to a standard established by rules of the Association, the Association may, after Notice and Hearing, repair or maintain the Lot as needed to bring it up to Association standards and assess the Lot Owner therefore as a Common Expense.

Section 6.3 - Access. Any person authorized by the Board of Directors shall have the right of access to all portions of the Property for the purpose of correcting any condition

threatening a Lot or the Common Elements, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the affected Lot Owner. In case of an emergency, no such request or notice is required and such right of entry shall be immediate, whether or not the Lot Owner is present at the time.

Section 6.4 – Allocation of Costs of Repairs. Each Lot Owner will reimburse the Association for any costs, including insurance deductibles, incurred by the Association due to damage to any Lot or to the Common Elements to the extent that such damages or costs were caused intentionally, negligently or by the Lot Owner's failure to properly maintain, repair or make replacements to his/her Lot. Such expense will be assessed following Notice and Hearing. The Association will be responsible for damage to Lots caused intentionally, negligently or by its failure to maintain, repair or make replacements to the Common Elements.

ARTICLE VII – Development Rights and Special Declarant Rights

Section 7.1 – No Reservation of Development Rights. The Declarant is not reserving any Development Rights.

Section 7.2 – Special Declarant Rights. The Declarant reserves the following Special Declarant Rights, to the maximum extent permitted by law, which may be exercised anywhere within the Common Interest Community:

- (a) to complete Improvements indicated on the Plats and referenced in the Declaration.
- (b) to maintain sales offices, management offices, signs advertising the Common Interest Community and models;
- (c) to use easements through the Common Elements for the purpose of making Improvements within the Common Interest Community; and
- (d) to appoint or remove an officer of the Association or Director during a period of Declarant control subject to the provisions of Section 7.8 of this Declaration.

Section 7.3 – Sales Offices and Management Offices. As long as Declarant is a Lot Owner, the Declarant and its duly authorized agents, representatives and employees may maintain any Lot owned by the Declarant or any portion of the Common Elements as a sales office or management office. Declarant may have no more than one (1) sales/management office within the Common Interest Community at any time, although the specific location may change from time to time as homes are developed and sold. A sales/management office may be no larger than a typical home constructed for sale to the public.

Section 7.4 – Construction: Declarant’s Easement. The Declarant reserves the right to perform repair and construction work, and to store materials in secure areas, on Lots owned by Declarant, and the further right to control all such work and repairs, and the right of access thereto, until its completion. All work may be performed by the Declarant without the consent or approval of the Board of Directors. The Declarant has such an easement through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant’s obligations or exercising Special Declarant Rights, whether arising under the Act or reserved in the Declaration.

Section 7.5 – Signs and Marketing. The Declarant reserves the right to post signs and displays on the Lots or Common Elements to promote sales of Lots and to conduct general sales activities, in a manner that will not unreasonably disturb the rights of Lot Owners.

Section 7.6 – Declarant’s Personal Property. The Declarant reserves the right to retain all personal property and equipment used in sales, management, construction and maintenance of the premises that has not been represented as property of the Association. The Declarant reserves the right to remove, promptly after the sale of the last Lot from the Property, any and all goods and improvements used in development, marketing and construction, whether or not they have become fixtures.

Section 7.7 – Declarant Control of Association.

(a) There shall be a period of Declarant control of the Association, during which the Declarant, or persons designated by the Declarant, may appoint and remove the officers and members of the Board of Directors. The period of Declarant control terminates no later than the earlier of:

- i. Sixty (60) days after conveyance to Owners other than the Declarant of seventy-five percent (75%) of the Lots that may be created;
- ii. Two (2) years after the Declarant has ceased to offer Lots for sale in the ordinary course of business;
- iii. Two (2) years after any right to add new Lots was last exercised;
or
- iv. Five (5) years after the first Lot is conveyed to a Lot Owner other than the Declarant.

The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors 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 Board of Directors, as described in a recorded instrument executed by Declarant, be approved by the Declarant before they become effective.

(b) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Lots that may be created to Lot Owners other than the Declarant, at least one (1) Director and not less than twenty-five percent (25%) of the Directors, shall be elected by Lot 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 the Declarant, not less than thirty-three and one-third percent ($33\frac{1}{3}\%$) of the Directors must be elected by Lot Owners other than the Declarant.

(c) Notwithstanding any provision of this Declaration or the Bylaws of the Association to the contrary, following notice under AS 34.08.390, the Lot Owners, by two-thirds ($\frac{2}{3}$) vote of all persons present and entitled to vote at a meeting of Lot Owners at which a quorum is present, may remove a Director with or without cause, other than a member appointed by the Declarant.

Section 7.8 – Limitations on Special Declarant Rights. Unless sooner terminated by a recorded instrument executed by the Declarant, any Special Declarant Right may be exercised by the Declarant so long as the Declarant is obligated under any warranty or obligation, owns any Lots or any Security Interest on any Lots, or for ten (10) years after recording the original Declaration, whichever is sooner. Earlier termination of certain rights may occur by statute.

Section 7.9 – Interference with Special Declarant Rights. Neither the Association nor any Lot Owner may take an action or adopt any rules that will interfere with or diminish any Special Declarant Right without the prior written consent of the Declarant.

ARTICLE VIII - Allocation of Interests

Section 8.1 - Allocation of Interests. Each Lot in the Common Interest Community is responsible for a percentage of the Common Expenses equal to the Allocated Interest assigned to that Lot determined in accordance with Section 8.2 of this Declaration. Each Lot is assigned a single vote in the Association regardless of the size of the Lot.

Section 8.2 - Formulas for the Allocation of Interests. The percentage of liability for Common Expenses allocated to each Lot is derived by dividing the acreage of each Lot by the acreage of all Lots. Nothing contained in this subsection shall prohibit certain Common Expenses from being apportioned to particular Lots under Article XV of this Declaration. In the case that Lots are reconfigured, as provided by Article XI, the voting rights shall be reassigned so that each resulting Lot is entitled to one vote, and each Lot shall be responsible for Common Expenses based on the acreage of each resulting Lot pursuant to the formula above. Notwithstanding the foregoing manner of calculating each Lot's liability for Common Expenses, in no event shall the maximum annual assessment of any Lot ever exceed

the cap set forth in AS 34.08.510(b)(7) (or any successor statute thereto), as adjusted under AS 34.08.820 (or any successor statute thereto) pursuant to the provisions thereof,

Section 8.3 - Assignment of Allocated Interests; Effective Date. The effective date for assigning Allocated Interests to Lots created pursuant to Section 8.1 of this Declaration shall be the date on which the amendment creating the Lots is recorded in the records of the Nenana Recording District.

ARTICLE IX – Restrictions on Use, Alienation and Occupancy

Section 9.1 – Use Restrictions. Subject to the Special Declarant Rights reserved under Article VII of this Declaration, no Lot shall be used except for detached single family residential purposes, provided, however that duplexes and multi-family dwellings may be permitted upon application to and approval by the Board of Directors if the lot size for the improvement is not less than 1 acre per residential unit, and all rentals of such dwellings shall be on a month-to-month or longer term. No unpermitted business or commercial activity shall be maintained or conducted on any Lot, including but not limited to gas, oil, mineral, quarry or gravel operations, except that (a) professional and administrative occupations may be carried on within residences on Lots so long as there exists no external evidence thereof and such use is approved in advance in writing by the Board of Directors, (b) any lots already developed for church use at the time this Declaration is recorded may continue to be used for the same purpose, and (c) use of residences for short term rentals (i.e., “bed and breakfast”) are permitted only if the owner occupies the structure as a primary residence and has annually applied for and obtained written approval from the Board of Directors for such rentals. Waivers may be considered by the Board of Directors for uses existing on the Lots at the time this Declaration is recorded. Dwellings not occupied by the owner may be rented only on a month-to-month or longer basis, and weekly or nightly rentals of such dwellings are specifically forbidden. More than one single family residence may be constructed on a lot only if the lot size is large enough to accommodate one residence per acre.

The Board of Directors may impose permit fees, waiver fees and require proof of compliance with applicable federal, state and local laws, regulations, ordinances and rules (collectively, “Applicable Laws”) from any Lot Owner seeking a permit or waiver. The Board of Directors may also establish a schedule of fees and costs to be assessed for violations of the provisions of Applicable Laws and/or violations of the provisions of this Declaration and/or the provisions of any rules, regulations, policies or procedures adopted by the Board of Directors.

Section 9.2 – Occupancy Restrictions. All Lots are subject to the following occupancy restrictions:

- (a) **Trash and Waste.** All trash and waste shall be kept inside sanitary containers which shall be emptied at regular and reasonable intervals to remove all trash and waste from the Lot.

(b) Water Facilities. Individual wells or water facilities may be drilled and maintained, provided that all such facilities shall be screened from view.

(c) Maintenance. The dwelling and all other improvements constructed on the Lot shall be kept in good maintenance and repair.

(d) Noxious or Offensive Activity. No noxious or offensive activity shall occur on the Lot, nor shall anything be done on the Lot which shall in any way interfere with the quiet enjoyment of neighboring property owners.

(e) Septic system. Concurrent with the construction of any dwelling or other improvement on the property, property owner shall construct an underground septic system consisting of a septic tank and leach field for waste water and sewage disposal that complies with all Applicable Laws, rules and regulations of the State of Alaska or other duly constituted authority regulating septic systems within the Denali Borough. When and if a sewage treatment plant and collection system is made available to service the Lot, that plant and system shall be used as the sole means of wastewater and sewage disposal from the Lot and use of the septic system shall be terminated. No outhouses or portable outhouses are permitted.

(f) Environmental. No accumulation of any trash, unused vehicles, waste materials or unsightly accumulations of any sort or any public or private nuisance or waste on the Lot is permitted, and the Lot shall be kept in a clean, neat and sanitary condition. No gasoline, diesel or oil or any other waste or hazardous material may be released on the Lot, the adjacent land or water, or any creeks or streams on or near the Lot. Except for tanks used for storing heating oil or fuel for consumptive use by the owner of the Lot where such oil or fuel is stored, no underground or above-ground fuel storage tanks are allowed without the prior written approval of the Board.

(g) Slope Stabilization, Construction and Environmental Requirements. Slopes shall be stabilized and sedimentation controlled at all times during construction. All construction shall comply with local, state and federal construction and environmental requirements.

(h) Drainage. Any alteration of natural drainage is the responsibility of the party changing grades. A Lot Owner changing the grade shall make provision for water runoff so that it does not negatively impact other Lot Owners or the Common Elements.

(i) Animals. Livestock (i.e., horses, pigs, chickens and other such animals), dog kennels, and other animals not specifically and typically associated a family residence are not allowed unless pre-approved in writing by the Board of Directors. Sled dogs teams may not be kept on a Lot, and no more than five (5) dogs

are allowed unless pre-approved in writing by the Board of Directors. The Board of Directors shall have the sole discretion to determine whether an animal is specifically and typically associated with a family residence. Each Lot Owner is responsible for removing its pets' feces from all areas of the Planned Community (i.e. lots, open spaces, streets, bike trails, sidewalks, etc.). No vicious dog, as defined by the Executive Board, shall be kept on any Lot.

ARTICLE X – Reserved

ARTICLE XI – Subdivisions and Relocation of Boundaries Between Adjoining Lots

Section 11.1 – Subdivision of Lots. The Association, by Board of Directors' approval without a vote of the Lot Owners, may approve the subdivision of Lots in the Common Interest Community only if all resulting Lots contain at least one acre of land. The Association, by Board of Directors' approval without a vote of the Lot Owners, may approve the resubdivision or boundary adjustment between of contiguous Lots only if all resulting Lots contain at least one acre of land and each Lot Owner and each lender holding a security interest in each such Lot provides its prior written approval. Each subdivision or resubdivision requires prior plat approval by the appropriate governmental authority.

Section 11.2 – Amendment to Relocate Boundaries. When the appropriate platting authority has granted plat approval to a Lot Owner or Owners, the Owner or Owners shall complete and submit to the Association an application for amendment of the Declaration to reflect the changed lot configuration and the Allocated Interests appertaining to the new Lots. When the Association has a completed application, the Association shall prepare an amendment to the Declaration that identifies the Lots involved, states the reallocation of allocated interests and indicates the Association's consent. The amendment must be executed by the Lot Owners of the Lots whose boundaries are being relocated and must contain words of conveyance between them. The holders of all Security Interests in the affected Lots shall also execute the amendment. As part of the amendment, the Association shall reallocate interests and prepare an amended Table of Allocated Interests. No relocation of boundaries is effective until the Amendment is recorded.

Section 11.3 – Costs Borne by Applicants. Lot Owners applying to relocate Lot boundaries are responsible for all costs for preparation and recordation of the amendment by the Association. The Association may require prepayment of these costs before the amendment is recorded.

ARTICLE XII – Amendments to Declaration

Section 12.1 - General. Except as otherwise provided by law or elsewhere in this Declaration, this Declaration, may be amended only by vote or agreement of Owners of Lots to which at least sixty-seven (67%) of the votes in the Association are allocated.

Section 12.2 – When Unanimous Consent Required. Except to the extent expressly permitted or required by provisions of the Act and this Declaration, an amendment may not create or increase Special Declarant Rights, increase the number of Lots, change the boundaries of a Lot, change the allocated interests of a Lot, or change the uses to which a Lot is restricted, in the absence of unanimous (100%) consent of the votes in the Association. This Section 12.2 does not eliminate or reduce the approval rights granted to the Board of Directors in other provisions of this Declaration including but not limited to the rights granted in Article XI of this Declaration.

Section 12.3 – Execution of Amendments. An amendment to the Declaration must be executed and recorded on behalf of the Association by an officer of the Association designated for that purpose or, in the absence of such designation, by the President of the Association.

Section 12.4 – Recordation of Amendments. Each amendment to the Declaration must be recorded in the Nenana Recording District. The amendment is effective only upon recording.

Section 12.5 - Limitations of Challenges. An action to challenge the validity of an amendment adopted by the Association pursuant to this Article may not be brought more than one (1) year after the amendment is recorded.

Section 12.6 – Special Declarant Rights. Provisions in the Declaration creating Special Declarant Rights may not be amended without the consent of the Declarant.

ARTICLE XIII – Amendments to Bylaws

The Bylaws may be amended only by two-thirds (2/3) of the members of the Board of Directors, following Notice and Comment to all Lot Owners, at any meeting duly called for such purpose.

ARTICLE XIV – Termination

Termination of the Common Interest Community may be accomplished only by the procedures specified in Section 34.08.260 of the Uniform Common Interest Ownership Act, which section is adopted herein by reference.

ARTICLE XV – Assessment and Collection of Common Expenses

Section 15.1 – Apportionment of Common Expenses. Except as provided in Section 15.2, all Common Expenses shall be assessed against all Lots in accordance with the formula set forth in Section 8.2 and shall not exceed the cap set forth in Section 8.2.

Section 15.2 – Common Expenses Attributable to Fewer than all Lots.

(a) Any Common Expense for services provided by the Association to an individual Lot, either required by the Declaration or provided at the request of the Lot Owner, shall be assessed against the Lot which benefits from such service.

(b) Any insurance premium increase attributable to a particular Lot by virtue of activities in or construction on the Lot shall be assessed against that Lot.

(c) An assessment to pay a judgment against the Association may be made only against the Lots in the Common Interest Community at the time the judgment was entered, in proportion to their Common Expense liabilities.

(d) If a Common Expense is caused by the misconduct of a Lot Owner, the Association may assess that expense exclusively against the Lot.

(e) Fees, including attorney's fees, charges, late charges, fines, collection costs and interest charged against the Lot Owner pursuant to the Documents are enforceable as Common Expense assessments.

Section 15.3 - Liens.

(a) The Association has a lien on a Lot for an assessment levied against the Lot and all fines, penalties, and fees imposed against the Lot Owner from the time the assessment or fine, penalty or fee becomes due. Fees, charges, late charges, collection costs, including reasonable attorney's fees, fines and interest charged pursuant to any of the Association's Documents are enforceable as assessments under this Section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

(b) A lien under this Section is prior to all other liens and encumbrances on a Lot except: (1) a lien and encumbrance recorded before the recordation of the original Declaration described above in the introductory paragraph of this Document; (2) a first Security Interest on the Lot recorded before the date on which the assessment sought to be enforced became delinquent; and (3) liens for real estate taxes and other governmental assessments or charges against the Lot. A lien under this Section is also prior to all Security Interests described in Subdivision (2) of this Subsection if the common expense assessment based on the periodic budget adopted by the Association, pursuant to Section 15.4 of this Article, would have become due in the absence of acceleration during the six (6) months immediately preceding the institution of an action to enforce the Association's lien. This does not affect the priority of mechanic's or materialmen's liens, nor the priority of a lien for other assessments made by the Association. A lien under this Section is not subject to the provisions of AS 09.38.010, as it may be amended from time to time.

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

(d) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the full amount of the assessment becomes due; provided that if a Lot Owner subject to a lien under this Section files a petition for relief under the US Bankruptcy Code, the period of time for instituting proceedings to enforce the Association's lien shall be tolled until thirty (30) days after the automatic stay of proceedings under §362 of the US Bankruptcy Code is lifted.

(e) This Section does not prohibit an action to recover sums for which the Association has a lien; nor does it prohibit the Association from taking a deed in lieu of foreclosure.

(f) When the Association acquires a judgment or decree in any action brought under this Section, such judgment or decree shall include an award to the Association for actual collection costs and reasonable attorney's fees.

(g) A judgment or decree in an action brought under this Section is enforceable by execution under AS 09.35.010, as it may be amended from time to time.

(h) The Association's lien must be foreclosed as a lien is foreclosed under AS 34.35.005, as it may be amended from time to time.

(i) In any action by the Association to collect assessments or to foreclose a lien for unpaid assessments, the court may appoint a receiver of the Lot Owner to collect all sums alleged to be due from that Lot Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's Common Expense assessments based on a periodic budget adopted by the Association pursuant to Section 15.4.

(j) The purchaser at a foreclosure sale initiated by the holder of a Security Interest in a Lot is not liable for any unpaid assessments against the Lot which became due before the sale, other than the assessments which are prior to that Security Interest under Subsection 15.3(b), above. Any unpaid assessments not satisfied from the proceeds of sale become Common Expenses for which all the Lot Owners, including the purchaser, may be assessed. For the purposes of this paragraph, "the purchaser" shall include, but not be limited to, any holder of a Security Interest in a Lot which obtains title to a Lot.

(k) Any payments received by the Association to discharge a Lot Owner's obligation may be applied to the oldest balance due.

(l) The Association may acquire, hold, lease, mortgage and convey a Lot foreclosed upon pursuant to this Section for unpaid assessments.

(m) A lien under this Section shall run with the land and shall not be affected by any sale or transfer of a Lot except as provided in Subsection (j), above.

Section 15.4 – Budget Adoption and Ratification. The Board of Directors shall adopt a proposed budget for the Common Interest Community, and shall, within thirty (30) days after adoption, provide a summary of the budget to each Lot Owner. The Board of Directors shall set a date for a meeting of the Lot Owners to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after mailing of the summary. Unless at that meeting a majority of all Lot Owners rejects the budget, the budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the Lot Owners continues until the Lot Owners ratify a budget proposed by the Board of Directors.

Section 15.5 – Non-Budgeted Common Expense Assessments. If the Board of Directors votes to levy a Common Expense assessment not included in the current budget, other than one enumerated in Section 15.2, in an amount greater than fifteen percent (15%) of the current annual operating budget, the Board of Directors shall submit such common expenses to the Lot Owners for their consideration and comment in the same manner as a budget under Section 15.4, above; provided, however, that such assessment can be considered at a special meeting as long as the notice required for annual meetings is provided to the Lot Owners.

Section 15.6 – Certificate of Payment of Common Expense Assessments. The Association upon written request shall furnish to a Lot Owner a statement ("Statement of Unpaid Assessments") in recordable form setting out the amount of unpaid assessments against his/her Lot including any fees, costs or penalties then due and owing by the Lot Owner to the Association. The statement must be furnished within ten (10) business days after receipt of the request and is binding upon the Association, the Board of Directors and each Lot Owner.

Section 15.7 – Annual Payment of Common Expenses. All common expenses assessed under this Article shall be due and payable annually.

Section 15.8 – Acceleration of Common Expense Assessments. In the event of a default for a period of ten (10) days by any Lot Owner in the payment of any common expense assessment levied against his/her Lot, the Board of Directors shall have the right, after Notice and Hearing, to declare all unpaid assessments for the pertinent fiscal year to be immediately due and payable. The holder of a first Security Interest in a Lot which has acquired title to any Lot as a result of a foreclosure of its Security Interest shall be exempt from the application of this Subsection.

Section 15.9 – Commencement of Common Expense Assessments. Common Expense assessments shall begin on the date declared by the Board of Directors.

Section 15.10 – No Waiver of Liability for Common Expenses. No Lot Owner may exempt himself/herself from liability for payment of the Common Expenses by waiver of the use or enjoyment of the Common Elements or by abandonment of the Lot against which the assessments are made.

Section 15.11 – Personal Liability of Lot Owners. The Owner of a Lot at the time a Common Expense assessment or portion thereof is due and payable is personally liable for the assessment. Personal liability for the assessment shall not pass to a successor in title to the Lot unless he/she agrees to assume the obligation.

Section 15.12 – Reserves. As part of the adoption of the regular budget pursuant to Section 15.4, the Board of Directors shall include an amount which, in its reasonable business judgment, will establish and maintain an adequate reserve fund for the repair and/or replacement of improvements to the Common Elements, based upon the elements age, remaining life and estimated replacement cost. Surplus funds of the Association remaining after payment of or provision for Common Expenses and prepayment of reserves may be held by the Association for the future needs of the Planned Community.

ARTICLE XVI – Right to Assign Future Income

The Association may assign its future income, including its right to receive Common Expense assessments, only by the affirmative vote of Owners of Lots to which at least fifty-one percent (51%) of the votes in the Association are allocated, at a meeting called for that purpose.

ARTICLE XVII – Persons and Lots Subject to Documents

Section 17.1 – Compliance with Documents. All Lot Owners, tenants, mortgagees and occupants of Lots shall comply with the Documents. The acceptance of a deed or the exercise of any incident of ownership or the entering into of a lease or entering into occupancy of a Lot constitutes agreement that the provisions of the Documents are accepted and ratified by such Lot Owner, tenant, mortgagee or occupant, and all such provisions recorded in the records of the Nenana Recording District, Fourth Judicial District, State of Alaska, are covenants running with the land and shall bind any Persons having at any time any interest in such Lot.

Section 17.2 – Adoption of Rules. After Notice and Comment, the Board of Directors may adopt Rules regarding the use of the Common Elements, and the use and occupancy of Lots and the activities of occupants as they affect the Common Elements.

ARTICLE XVIII - Insurance

Section 18.1 – Coverage. To the extent reasonably available, the Board of Directors shall obtain and maintain insurance coverage as set forth in this Article. If such insurance is not reasonably available, and the Board of Directors determines that any insurance described herein will not be maintained, the Board of Directors shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Lot Owners at their last known address.

Section 18.2 – Property Insurance.

(a) Subject to the provisions of Section 18.1, property insurance shall be maintained on any personal property owned by the Association. Selecting the deductible and allocation of responsibility for payment of the deductible shall be according to the policy established by the Board of Directors.

(b) The insurance shall afford protection against “all risks” of direct physical loss commonly insured against.

(c) The name of the insured shall be substantially as follows:

“TRI-VALLEY SUBDIVISION HOMEOWNERS ASSOCIATION, INC.”

Section 18.3 – Liability Insurance. Subject to the provisions of Section 18.1, the Association shall maintain liability insurance, including medical payments insurance, in an amount determined by the Board of Directors covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements and the activities of the Association. Insurance policies carried pursuant to this Section shall provide that:

(a) Each Lot Owner is an insured person under the policy with respect to liability arising out of the interest of the Lot Owner in the Common Elements or membership in the Association;

(b) The insurer waives the right to subrogation under the policy against a Lot Owner or member of the household of a Lot Owner;

(c) An act or omission by a Lot Owner, unless acting within the scope of the Lot Owner’s authority on behalf of the Association, will not void the policy or be a condition to recovery under the policy;

(d) If, at the time of a loss under the policy, there is other insurance in the name of a Lot Owner covering the same risk covered by the policy, the policy of the Association provides primary insurance; and

(e) The insurer issuing the policy may not cancel or refuse to renew the policy until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Lot Owner, and each holder of a Security Interest to whom a certificate or memorandum of insurance has been issued at their last known address.

Section 18.4 – Fidelity Bonds. After the period of Declarant control pursuant to Section 7.8, a blanket fidelity bond is required for anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. The bond shall name the Association as obligee and shall cover the maximum funds that will be in the custody of the Association or the manager at any time while the bond is in force, and in no event less than the sum of three (3) months' assessments plus reserve funds. The bond shall include a provision that calls for ten (10) days' written notice to the Association, to each holder of a Security Interest in a Lot, to each servicer that services a FNMA-owned, VA-owned, FHLMC-owned, or AHFC-owned mortgage on a Lot and to the insurance trustee, if any, before the bond can be canceled or substantially modified for any reason.

Section 18.5 – Lot Owner Policies. An insurance policy issued to the Association does not prevent a Lot Owner from obtaining insurance for his/her own benefit, and Lot Owners are encouraged to obtain their own insurance for their own property.

Section 18.6 – Workers' Compensation Insurance. If the Board of Directors authorizes the hiring of one or more employees, the Association shall obtain and maintain Workers' Compensation Insurance to meet the requirements of the laws of the State of Alaska.

Section 18.7 – Directors' and Officers' Liability Insurance. The Board of Directors may obtain and maintain directors' and officers' liability insurance if available, covering all of the Directors and officers of the Association in such limits as the Board of Directors may, from time to time, determine.

Section 18.8 – Other Insurance. The Association may carry other insurance which the Board of Directors considers appropriate to protect the Association and/or the Lot Owners.

Section 18.9 – Premiums. Insurance premiums shall be a Common Expense.

ARTICLE XIX – Rights to Notice and Comment; Notice and Hearing

Section 19.1 – Right to Notice and Comment. Before the Board of Directors amends the Bylaws or the Rules, whenever the Documents require that an action to be taken after "Notice and Comment", and at any other time the Board of Directors determines, the Lot Owners have the right to notice of the proposed action and the right to comment orally or in writing. Notice of the proposed action shall be given to each Lot Owner in writing and shall be delivered personally or by mail to all Lot Owners at such address as appears in the records of the

Association, or published in a newsletter or similar publication which is routinely circulated to all Lot Owners. The notice shall be given not less than ten (10) days before the proposed action is to be taken. It shall invite comment to the Board of Directors orally or in writing before the scheduled time of the meeting. The right to Notice and Comment does not entitle a Lot Owner to be heard at a formally constituted meeting.

Section 19.2 – Right to Notice and Hearing. Whenever the Documents require that an action be taken after “Notice and Hearing”, the following procedure shall be observed: The party proposing to take the action (e.g., the Board of Directors, a committee, an officer, the manager, etc.) shall give written notice of the proposed action to all Lot Owners whose interest would be significantly affected by the proposed action. The notice shall include a general statement of the proposed action and the date, time and place of the hearing. The notice shall be given not less than ten (10) days before the hearing date. At the hearing, affected Persons shall have the right, personally or by a representative, to give testimony orally, in writing or both (as specified in the notice), subject to reasonable rules of procedure established by the party conducting the meeting to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision but shall not bind the decision makers. The affected Persons shall be notified of the decision in the same manner in which notice of the meeting was given.

Section 19.3 - Appeals. Any Person having a right to Notice and Hearing shall have the right to appeal to the Board of Directors from a decision of Persons other than the Board of Directors by filing a written notice of appeal with the Board of Directors within ten (10) days after being notified of the decision. The Board of Directors shall conduct a hearing within thirty (30) days, giving the same notice and observing the same procedures as were required for the original meeting.

ARTICLE XX – Board of Directors

Section 20.1 – Powers and Duties. The Board of Directors may act in all instances on behalf of the Association, except as provided in this Declaration, the Bylaws or the Articles of Incorporation. The Board of Directors shall have, subject to the limitations contained in this Declaration and the Nonprofit Corporations Act, the powers and duties necessary for the administration of the affairs of the Association and of the Common Interest Community which shall include, but are not limited to, the following:

- (a) Adopt and amend Bylaws, Rules and regulations;
- (b) Adopt and amend budgets for revenues, expenditures and reserves;
- (c) Collect assessments for Common Expenses from Lot Owners;
- (d) Hire and discharge managing agents;

(e) Hire and discharge employees, independent contractors, and agents, other than managing agents;

(f) Institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violation of the Association's Declaration, Bylaws or Rules in the Association's name on behalf of the Association or two (2) or more Lot Owners on matters affecting the Common Interest Community;

(g) Make contracts and incur liabilities;

(h) Regulate the use, maintenance, repair, replacement and modification of the Common Elements;

(i) Cause additional improvements to be made as part of the Common Elements;

(j) Acquire, hold, encumber and convey in the Association's name any right, title or interest to real property or personal property, but Common Elements may be conveyed or subjected to a Security Interest only pursuant to Section 5.2 of the Declaration;

(k) Grant easements for any period of time, including permanent easements, and leases, licenses and concessions for no more than one (1) year, through or over the Common Elements;

(l) Impose and receive a payment, fee or charge for the use, rental or operation of the Common Elements and for services provided to Lot Owners;

(m) Impose a reasonable charge for late payment of assessments and, after Notice and Hearing, levy reasonable fines for violations of this Declaration, Bylaws, Rules and regulations of the Association;

(n) Impose a reasonable charge for the preparation and recordation of amendments to this Declaration, the filing and recording of a plat or plan that accompanies an amendment, resale certificates, or a Statement of Unpaid Assessments;

(o) Provide for the indemnification of the Association's officers and Board of Directors and maintain Directors' and officers' liability insurance;

(p) Assign the Association's right to future income, including the right to receive Common Expense assessments;

(q) Exercise any other powers conferred by this Declaration or the Bylaws;

(r) Exercise any other power that may be exercised in this state by legal entities of the same type as the Association;

(s) Exercise any other power necessary and proper for the governance and operation of the Association; and

(t) By resolution, establish committees of Directors, permanent and standing, to perform any of the above functions under specifically delegated administrative standards, as designated in the resolution establishing the committee. All committees must maintain and publish notice of their actions to Lot Owners and the Board of Directors. However, actions taken by a committee may be appealed to the Board of Directors by any Lot Owner within forty-five (45) days of publication of such notice, and such committee action must be ratified, modified or rejected by the Board of Directors at its next regular meeting.

Section 20.2 – Board of Directors Limitations. The Board of Directors may not act on behalf of the Association to amend this Declaration, to terminate the Common Interest Community, or to elect members of the Board of Directors or determine the qualifications, powers and duties, or terms of office of Board of Directors members, but the Board of Directors may fill vacancies in its membership for the unexpired portion of the term.

Section 20.3 – Minutes of Board of Directors Meetings. The Board of Directors shall permit any Lot Owner to inspect the minutes of Board of Directors meetings during normal business hours. The minutes shall be available for inspection within fifteen (15) days after such meeting.

Section 20.4 – Inspection of Books. The Association must maintain current copies of the Declaration, Bylaws, Rules, books, records and financial statements. The Association shall permit any Lot Owner to inspect the books and records of the Association during normal business hours.

Section 20.5 – Financial Statements. The Association shall provide any Lot Owner who submits a written request a copy of an annual financial statement within ninety (90) days following the end of each fiscal year of the Association.

ARTICLE XXI – Open Meetings

Section 21.1 – Access. All meetings of the Board of Directors, at which action is to be taken by vote at such meeting will be open to the Lot Owners, except as hereafter provided.

Section 21.2 – Notice. Notice of every such meeting will be given not less than twenty-four (24) hours prior to the time set for such meeting by posting a notice in a conspicuous place within the Property except that such notice will not be required if an emergency situation requires that the meeting be held without delay.

Section 21.3 – Executive Sessions. Meetings of the Board of Directors may be held in executive session, without giving notice and without the requirement that they be open to Lot Owners where the action taken at the executive session involves personnel, pending litigation, contract negotiations, or enforcement actions, or where no action is taken at the executive session requiring the affirmative vote of Directors.

ARTICLE XXII - Condemnation

If part or all of the Common Interest Community is taken by any power having the authority of eminent domain, all compensation and damages for and on account of the taking shall be payable in accordance with Section 34.08.740 of the Act.

ARTICLE XXIII – Compatible Development

The Common Interest Community will be developed and maintained in a manner compatible with the Declaration for Tri-Valley Subdivision (A Planned Community).

ARTICLE XXIV - Miscellaneous

Section 24.1 - Captions. The captions contained in this Documents are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the Documents nor the intent of any provision thereof.

Section 24.2 - Gender. The use of the masculine gender refers to the feminine and neuter genders and the use of the singular includes the plural and vice versa, whenever the context of the Documents so require.

Section 24.3 - Waiver. No provision contained in the Documents 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 24.4 - Invalidity. The invalidity of any provision of the Documents 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 Documents shall continue in full force and effect.

Section 24.5 - Conflict. The Documents are intended to comply with the requirements of the Alaska Nonprofit Corporations Act, and with the Uniform Common Interest Ownership Act, to the extent that the requirements of AS 34.08.030 are met. In the event of any conflict between the 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 Document, this Declaration shall control.

Section 24.6 - Rights of Action. The Association and any aggrieved Lot Owner shall have a right of action against Lot Owners for failure to comply with the provisions of the

