

**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF DARTMOUTH HEIGHTS, FILING NO. 1**

This Declaration, made on the date hereinafter set forth by Celebrity Homes, Inc., a Delaware corporation, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Denver State of Colorado which is more particularly described as: Dartmouth Heights, Filing No. 1, according to the Plat thereof recorded July 11, 1980 in book 28 at page 85 of the Denver County records.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I – DEFINITIONS

Section 1. "Association" shall mean and refer to Dartmouth Heights Association a non-profit Colorado corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performances of an obligation.

Section 3. "Properties" shall mean and refer to the that certain real property hereinabove described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association is described as follows"

Outlot A, Dartmouth Heights, Filing No. 1 , together with the perimeter landscaped areas and islands as show on the Plat.

The Declarant may convey additional common areas to the Association as additional properties are annexed to the properties pursuant to the provisions of Section 4, Article VIII.

Section 5. "Lot" shall mean and refer to any plot of land shown up on any recorded subdivision map of the Properties.

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

ARTICLE II – PROPERTY RIGHTS

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

- a. the right of the Association to charge reasonable admission and other fees for the uses of any recreational facility situated upon the Common Area;
- b. the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;
- c. the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposed and subject to such conditions as may be agreed to by the members;
- d. the right of the Association to place such restrictions upon the use of the facilities as it may deem advisable, including, but not limited to, the classification of users by age groups.

No such dedication or transfer shall be effective unless an instrument signed by two-thirds of each class of members agreeing to such dedication or transfer as been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contact purchasers who reside on the property.

ARTICLE III – MEMBERSHIP AND VOTING RIGHTS

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

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

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

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. As additional properties are annexed and become subject to this Declaration in accordance with the provisions of Section 4. (b) of the Article VIII hereof, the Declarant shall be entitles to the Class B votes with respect to each Lot so annexed. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- a. When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- b. On December 31, 1985

ARTICLE IV – COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association:

1. annual assessments or charges, and
2. special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be charge on the land and shall be continuing lien up on the property again which each assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. Their personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area and recreational facilities located thereon. The assessments, whether held by the Declarant or by the Association, shall be used for the maintenance and repair of the Common Area and recreational facilities as the same are completed by the Declarant, whether in whole or any segment thereof. The Declarant makes not warranties with respect to the installations on the Common Area and the recreational facilities, expect to pass on the Association those warranties given to Declarant.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Thirty Dollars (\$30.00) per Lot,

- a. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 20% above the maximum assessment for the pervious year without a vote of the membership.
- b. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 20% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.
- c. The Board of Directors may fix the annual assessment at any amount to in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement up on the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 day sin advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to case sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected in advance on a yearly , quarterly or monthly basis as the Board of Directors may determine. Declarant shall be liable to pay annual assessment upon those Lots used for show homes, construction offices, and supplies only.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The assessments provided for herein shall commence as to each Lot on the date of conveyance of such Lot, and each Owner shall pay in advance, at the time of closing a prorated amount of the annual assessment from the date of conveyance to the first day of the following year. Thereafter, the full annual assessment will be due the first day of each subsequent year. Declarant shall hold such advance payment for the uses specified in Article IV Section 2 hereof, and shall pay any balance of such advance payment to the Association at the time the operation of the project is turned over to the Association. The Board of Directors shall fix the Amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the association setting forth whether the assessments on a specific Lot have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eighteen percent (18%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sales or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V – ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval

will not be required and this Article will be deemed to have been fully complied with. The provisions of this Article shall not be applicable to Declarant with respect to any new construction by Declarant.

ARTICLE VI – USE RESTRICTIONS

- a. The use of the Common Area shall be subject to the restrictions set forth in Article II, and to these restrictions hereinafter set forth.
- b. No use shall be made of the Common Area which will in any manner violate the statutes, rules or regulations of any governmental authority having jurisdictions over the Common Area
- c. No Owner shall place any structure whatsoever upon the Common Area, nor shall any Owner engage in any activity which will temporarily or permanently deny free access to any part of the Common Area to all Members.
- d. The use of the Common Area shall be subject to such rules and regulations as may be adopted from time to time by the Board of Directors of the Association.
- e. No use shall ever be made of the Common Area which will deny ingress and egress to those Owners having access to Lots only over Common Area and the right of ingress and egress to said Lots by vehicle and otherwise is hereby expressly granted.
- f. Each and every one of said Lots shall be used for private family residence purposes only. Garage or carports must either be attached to any single family residence as an integral part thereof or attached thereto by arbor or breezeway and shall conform to the architecture thereof. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings shall be used on any portion of the premises at any time as a residence either temporarily or permanently except that Declarant may maintain a temporary building for construction purposes.
- g. No room or rooms in any residence or parts thereof may be rented or leased and no paying guests shall be quartered in any residence. Nothing contained in this Section, however, shall be construed as preventing the renting or leasing of an entire residence as a single unit to a single family. No business or professional prohibited by zoning laws shall be conducted upon the premises, and no exterior signs of any nature may be shown or displayed with respect to any lawful business or profession.
- h. Every principal residence constructed on a Lot shall have not less than 1,000 square feet of floor area devoted to living purposes (exclusive of roofed or unroofed porches, terraces, basements, garages or carports) and shall have a garage or carport of sufficient size to house not less than two cars; further, each such residence shall provide for off-street parking for at least two cars; excluding the space in the garage or carport. If a residence of more than one story is constructed, the main floor shall have not less than 800 square feet of floor area devoted to living space. No camper or trailer may be parked in the street and the parking of such vehicle off-street shall be in a manner reasonable shielding it from the view from the street and neighboring lots consistent with the planting and fencing regulations. In no case shall there be off-street parking for cars except in a driveway. Above also applies to boats.
- i. No wall or fence except a decorative wood, stone or brick fence not exceeding six feet in height measured from the adjoining ground surface inside the fence, may be erected or maintained on any Lot, except in connection with recreational facilities. Any rock retaining walls shall be maintained by the Owner of the property below the walls. Boundary planting along any lot lines, except trees with single trunks, shall, not be permitted to grown higher than (6) six feet. No wall,

fences or hedges will be permitted on the street frontage within fifteen (15) feet of front property line, except for needed retaining walls. On corner lots, no walls, fences or hedges will be permitted within fifteen (15) feet of the property line as measured to either street, except for required retaining walls.

- j. Any building placed, erected or maintained upon any Lot in the tract shall be entirely constructed thereon, and the same shall not nor shall any part thereof be moved or placed thereon from elsewhere.
- k. All electric, television, radio and telephone line installments and connection from Lot Owner's property line to residence or structures shall be placed underground.
- l. Each residence shall maintain at least one electric post light between house and the street, which said light shall be operated by a photo-electric cell or other automatic device to that it will be lighted automatically during the house or darkness
- m. No animals, livestock or poultry of any kind shall be raised bred or kept on any Lot, except that dogs, cats or other household pets may be kept, provided they are not kept, bred or maintained for any commercial purpose.
- n. No advertising sign (except one of not more than five square feet "For Rent" or "For Sale" sign per parcel), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on the premises, nor shall the premises be used in any way or for any purpose which may endanger the health or unreasonably distract the Owner of any Lot or any resident thereof. Provided, further, however, the foregoing covenants shall not apply to the business activities, signs and billboards, or the construction and maintenance of buildings, if any of the Declarant, its agents and assigns during the construction and sale period and of the Association, its successors and assigns, in furtherance of its powers and purpose as hereinafter set forth.
- o. All clotheslines, equipment, garbage cans, service yards, wood piles or storage piles shall be kept screens by adequate planting or fencing as herein permitted so as to conceal them from view of neighboring Lots and streets. All rubbish, trash, or garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon.
- p. No exterior televisions or radio antennas of any sort shall be placed, allowed or maintained upon the premises or any portion of the improvements to be located upon the premises, nor upon any structure situated upon said real property, except as may be approved, in writing by the Board of Directory of the Association.

ARTICLE VII – EASEMENTS

The easements over and across the Common Area shall be those shown or provided for upon the recorded plat of Dartmouth Heights, Filing No. 1, and any other subsequent platted properties which are annexed hereunder, and such other easements as may be established pursuant to the provisions of this Declaration of Covenants, Conditions and Restrictions. Declarant reserved unto in itself and its successors for a period of three (3) years from the date hereof easements, without further consent to construct, use and abandon utilities under, over and across any property, including but not limited to, individually platted lots and common areas. Declarant may abandon such easements without in any way being obligated to remove the utilities installed therein.

ARTICLE VIII – GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

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

Section 4. Annexation

- a. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.
- b. Additional land within the W ½ of Section 32, Township 4 South, Range 68 West of the 6th P.M., County of Denver, State of Colorado, may be annexed to the properties by the Declarant without the consent of the members within three (3) years of the date of this instrument.

Section 5. Reports and Records. The Association shall furnish such reports and records, and make available the Association Books, to any Governmental Agency requesting the same in connection with any loans of the agency secured by one or more Lots in the properties.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 10th day of March 1981,