

Filed for record the 25 day of June, A. D. 1969, at 1:05 o'clock P. M. by Evelyn Tague, RECORDER
Reception No. 275777 by Marian A. Smith, DEPUTY

CONDOMINIUM DECLARATION
FOR
ALPINE APARTMENTS
(A Condominium)

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, E & W Company, a joint venture between Richard S. Eflin and the Wheeler Kelly & Hagny Investment Company, a Kansas corporation, hereinafter called "Declarant", is the owner of the real property situate in the County of Gunnison, State of Colorado, which property is described on the attached Exhibit "A", which by this reference is made a part hereof; and

WHEREAS, Declarant desires to establish a condominium complex under the Condominium Ownership Act of the State of Colorado; and

WHEREAS, by this Declaration a plan is established for the separate ownership in fee simple of the real property estates (condominium units) and for submitting the property described in this Declaration to condominium use; and

WHEREAS, the initial development will consist of the construction of ten condominium units in a multi-story building on the property described in Exhibit "A"; and

WHEREAS, Declarant does hereby establish a plan for the ownership in fee simple of real property estates consisting of the area or space contained in each of the air space units in the building improvements and the co-ownership by the individual and separate owners thereof, as tenants in common, of all of the remaining property, which property is hereinafter defined and referred to as the general common elements;

NOW THEREFORE, Declarant does hereby publish and declare that the following terms, covenants, conditions, easements, restrictions, uses, limitations and obligations shall be deemed to run with the land, shall be a burden and a benefit to Declarant, its successors and assigns and any person acquiring or owning an interest in the real property and improvements, their grantees, successors, heirs, executors, administrators, devisees or assigns.

1. Definitions, unless the context shall expressly provide otherwise.

(a) 'Unit' means an individual air space unit which is contained within the perimeter walls, floors, ceilings, windows and doors of such unit in a building as shown on the Condominium Map to be filed for record, together with all fixtures and improvements therein contained but not including any of the structural components of the building, if any, within a unit.

(b) 'Condominium unit' means the fee simple interest and title in and to a unit together with the undivided interests in and to the general and limited common elements.

(c) 'Owner' means a person, firm, corporation, partnership, association or other legal entity, or any combination thereof, who own(s) one or more condominium units.

(d) 'General common elements' means and includes the land on which the building is located; the structural components of the building; the balconies; and all other parts of such land and the improvements thereon necessary or convenient to its existence, maintenance and safety which are normally and reasonably in common use, including the air above such land, all of which shall be owned, as tenants in common, by the owners of the separate units, each owner of a unit having an undivided percentage interest in such general common elements as is provided hereinafter.

(e) 'Limited common elements' means those parts of the general common elements which are either limited to and reserved for the exclusive use of an owner of a condominium unit or are limited to and reserved for the common use of more than one but fewer than all of the condominium unit owners.

(f) 'Entire premises' or 'property' means and includes the land, the buildings, all improvements and structures thereon, all owned in fee simple absolute, and all rights, easements and appurtenances belonging thereto.

(g) 'Condominium project' means all of the land and improvements initially and subsequently submitted to this Declaration.

(h) 'Common expenses' means and includes expenses of administration, operation, rental and management of the units, and the expense of maintenance, repair or replacement of the general common elements; expenses declared common expenses by provisions of this Declaration and the By-Laws of the Association; and all sums lawfully assessed against the units and the general common elements.

(i) 'Association of Unit Owners' or 'Association' means Alpine Condominium Association, a Colorado corporation, not for profit, its successors and assigns, the Certificate of Incorporation and By-Laws of which shall govern the administration of this condominium property, the members of which shall be all of the owners of the condominium units.

(j) 'Building' means one of the building improvements containing units and which comprises a part of the property.

(k) 'Map' or 'Supplemental Map' means and includes the engineering survey of the land locating thereon all of the improvements, the floor and elevation plans and any other drawing or diagrammatic plan depicting a part of or all of the improvements and land.

2. Condominium Map. The Map may be filed for record in whole or in parts or sections, from time to time, as the stages of construction of the units and other improvements are substantially completed. Each section of the Map filed subsequent to the first or initially filed Map shall be termed a Supplement to such Map and the numerical sequence of such supplements shall be shown thereon. The Map or any part or section thereof depicting units shall not be filed for record until the building in which the units are located has been substantially completed in order to permit the location thereof, both horizontally and vertically by a registered engineer. Each such Map shall be filed for

record prior to the conveyance of a condominium unit to a purchaser. Each such Map shall depict and show at least the following: The legal description of the land and a survey thereof; the location of the building(s); the floor and elevation plans; the location of the unit within the building, both horizontally and vertically; the thickness of the common walls between or separating the units; the location of any structural components or supporting elements of a building located within a unit; and, the unit designations and the building number. The Map shall contain the certificate of a registered professional engineer or licensed architect, or both, certifying that the Map substantially depicts the location and the horizontal and vertical measurements of the building, the units, the unit designations, the dimensions of the units, the elevations of the unfinished floors and ceilings as constructed, the building number or symbol and that such Map was prepared subsequent to substantial completion of the improvements. Each supplement and/or any Amendment shall set forth a like certificate when appropriate.

In interpreting the Map the existing physical boundaries of each separate unit as constructed shall be conclusively presumed to be its boundaries.

Declarant reserves the right to amend the Map, from time to time, to conform same according to the actual location of any of the constructed improvements and to establish, vacate and relocate easements, access road easements and off-site parking areas.

3. Division of Property into Condominium Units. The real property described in Exhibit "A" and the improvements to be constructed thereon are hereby divided into the following fee simple estates:

Ten separate fee simple estates, each such estate consisting of one unit together with an appurtenant undivided one-tenth interest in and to the general common elements. The general common elements shall be held in common by the owners thereof. Each condominium unit is described on the attached Exhibit "B", which by this reference is made a part hereof. Each condominium unit shall be identified on the map by the number and by the building symbol as is shown on Exhibit "B".

4. Limited Common Elements. A portion of the general common elements is reserved for the exclusive use of the individual owners of the respective units, and such areas are referred to as "limited common elements". The limited common elements so reserved are the balconies as shown on the Map. The balcony which is accessible from, associated with and which adjoins a unit shall, without further reference thereto, be used in connection with such unit to the exclusion of the use thereof by the other owners of the general common elements, except by invitation. All of the owners of condominium units in this condominium project shall have a non-exclusive right, in common with all of the other owners, to the use of sidewalks, pathways, and the parking area located within the entire condominium project. No reference thereto, whether such limited common elements are exclusive or non-exclusive, need be made in any deed, instrument of conveyance, or other instrument, and reference is made to the provisions of paragraph 6 of this Declaration.

5. Inseparability of a Condominium Unit. Each unit, the appurtenant undivided interest in the general common elements and the appurtenant limited common elements shall together comprise one condominium unit, shall be inseparable and may be conveyed, leased, devised or encumbered only as a condominium unit.

6. Description of Condominium Unit. A contract for the sale of a condominium unit written prior to the filing for record of the Map may legally describe a condominium unit by its identifying unit number, the building symbol, followed by the words "Alpine Apartments", with further reference to the Declaration and the Map to be filed for record.

Subsequent to the filing of the Map and the recording of the Declaration, every deed, lease, mortgage, trust deed, will or other instrument may legally describe a condominium unit by identifying unit number, the building symbol, followed by the words "Alpine Apartments" with further reference to the Map thereof filed for record and the recorded Declaration. Every such description shall be good and sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect not only the unit but also the general common elements and the limited common elements appurtenant thereto. Each such description shall be construed to include a non-exclusive easement for ingress and egress to an owner's unit and use of all of the general common elements together with the right to the use of the limited common elements. The initial deeds conveying each condominium unit may contain reservations, exceptions and exclusions which the Declarant deems to be consistent with and in the best interests of all condominium unit owners and the Association.

7. Separate Assessment and Taxation - Notice to Assessor. Declarant shall give written notice to the assessor of the County of Gunnison, Colorado, of the creation of condominium ownership of this property, as is provided by law, so that each unit and the undivided interest in the general common elements appurtenant thereto shall be deemed a parcel and subject to separate assessment and taxation.

8. Ownership - Title. A condominium unit may be held and owned by more than one person as joint tenants or as tenants in common, or in any real property tenancy relationship recognized under the laws of the State of Colorado.

9. Non-Partitionability of General Common Elements. The general common elements shall be owned in common by all of the owners of the units and shall remain undivided, and no owner shall bring any action for partition or division of the general common elements. Nothing contained herein shall be construed as a limitation of the right of partition of a condominium unit between the owners thereof, but such partition shall not affect any other condominium unit.

10. Use of General and Limited Common Elements. Each owner shall be entitled to exclusive ownership and possession of his unit. Each owner may use the general and limited common elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other owners.

11. Use and Occupancy. Each unit shall be used and occupied principally for residential purposes by the owner, by the owner's family, guests, invitees and tenants.

Declarant and its employees, representatives, agents and contractors may maintain a business and sales office, construction facilities and yards, model units and other facilities required during the construction and sales period.

12. Easements for encroachments. If any portion of the general common elements encroaches upon a unit or units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. If any portion of a unit encroaches upon the general common elements, or upon an adjoining unit or units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the general common elements or the units.

13. Termination of Mechanic's Lien Rights and Indemnification. Subsequent to the completion of the improvements described on the Map, no labor performed or materials furnished and incorporated in a unit with the consent or at the request of the unit owner or his agent or his contractor or subcontractor shall be the basis for filing of a lien against the unit of any other unit owner not expressly consenting to or requesting the same, or against the general common elements. Each owner shall indemnify and hold harmless each of the other owners from and against all liability arising from the claim of any lien against the unit of any other owner or against the general common elements for construction performed or for labor, materials, services or other products incorporated in the owner's unit at such owner's request. The provisions herein contained are subject to the rights of the Managing Agent or Board of Managers of the Association as is set forth in paragraph 16.

14. Administration and Management; Managing Agent. The administration, rental and management of this condominium property shall be governed by the By-Laws of Alpine Condominium Association. An owner of a condominium unit, upon becoming an owner, shall be a member of the Association and shall remain a member for the period of his ownership. The Association shall be initially governed by a Board of Managers as is provided in the By-Laws of the Association. The Association may delegate by written agreement any of its duties, powers and functions to any person or firm to act as Managing Agent at an agreed compensation. The Managing Agent for the operation and management of this condominium is E & W Company who shall perform the operational, management and rental duties and functions for a period of five years from the date of the first conveyance of a condominium unit. A portion of the general common elements, including improvements thereon, may be used by either the Association or both the Association and Managing Agent as and for offices in connection with administration and management.

15. Certificate of Identity. There shall be recorded from time to time a certificate of identity and the addresses of the persons then comprising the management body (Managers and Officers) together with the identity and address of the Managing Agent. Such Certificate shall be conclusive evidence thereof in favor of any person relying thereon in good faith regardless of time elapsed since date thereof. The first such certificate shall be recorded on or before May 1, 1969.

16. Reservation for Access - Maintenance, Repair and Emergencies. The owners shall have the irrevocable right, to be exercised by the Managing Agent or Board of Managers of the Association, to have access to each unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the general common elements therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the general common elements or to another unit

or units. Damage to the interior or any part of a unit or units resulting from the maintenance, repair, emergency repair or replacement of any of the general common elements or as a result of emergency repairs within another unit at the instance of the Association shall be a common expense of all of the owners; provided, however, that if such damage is the result of the misuse or negligence of a unit owner, then such unit owner shall be responsible and liable for all of such damage. All damaged improvements shall be restored to substantially the same condition of such improvements prior to damage.

All maintenance, repairs and replacements as to the general common elements, whether located inside or outside of units (unless necessitated by the negligence or misuse of a unit owner, in which case such expense shall be charged to such unit owner), shall be the common expense of all of the owners.

17. Owners' Maintenance Responsibility of Unit and Balcony. For purposes of maintenance, repair, alteration and remodeling, an owner shall be deemed to own the interior non-supporting walls, the materials (such as but not limited to plaster, gypsum dry wall, paneling, wallpaper, paint, wall and floor tile, and flooring, but not including the sub-flooring) making up the finished surfaces of the perimeter walls, ceilings and floors within the unit and the unit doors and windows. The owner shall not be deemed to own lines, pipes, wires, conduits or systems (which for brevity are hereafter referred to as utilities) running through his unit which serve one or more other units except as a tenant in common with the other owners. Such utilities shall not be disturbed or relocated by an owner without written consent and approval of the Board of Managers. Such right to repair, alter and remodel shall carry the obligation to replace any finishing or other materials removed with similar or other types or kinds of materials. An owner shall maintain and keep in repair the interior of his own unit, including the fixtures and personal property therein. All fixtures and equipment installed within the unit commencing at a point where the utilities enter the unit shall be maintained and kept in repair by the owner thereof. An owner shall do no act nor any work that will impair the structural soundness or integrity of the building or impair any easement or hereditament.

18. Compliance with Provisions of Declaration, By-Laws of the Association. Each owner shall comply strictly with the provisions of this Declaration, the Articles of Incorporation and By-Laws of the Association, and the decisions, rules and resolutions of the Association adopted pursuant thereto as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due and for damages or injunctive relief or both, maintainable by the Managing Agent or Board of Managers in the name of the Association on behalf of the owners or, in a proper case, by an aggrieved owner.

19. Revocation or Amendment to Declaration. This Declaration shall not be revoked unless all of the owners and all of the holders of any recorded mortgage or deed of trust covering or affecting any or all of the condominium units unanimously consent and agree to such revocation by instrument(s) duly recorded. This Declaration shall not be amended unless the owners representing an aggregate ownership interest of sixty per cent, or more, of the general common elements and all of the holders of any

recorded mortgage or deed of trust covering or affecting any or all condominium units unanimously consent and agree to such amendment by instrument(s) duly recorded; provided, however, that the percentage of the undivided interest in the general common elements appurtenant to each unit, as expressed in this Declaration, shall have a permanent character and shall not be altered without the consent of all of the unit owners expressed in an amended Declaration duly recorded.

20. Assessment for Common Expenses. All owners shall be obligated to pay the estimated assessments imposed by the Board of Managers of the Association to meet the common expenses. The assessments shall be made pro rata according to each owner's percentage interest in and to the general common elements, except for hazard insurance premiums. Assessments for insurance premiums shall be based upon that proportion of the total premium(s) that the insurance carried on a condominium unit bears to total coverage. The limited common elements shall be maintained as general common elements, and owners having exclusive use thereof shall not be subject to any special charges or assessments. Assessments for the estimated common expenses, including insurance, shall be due monthly in advance on the first day of each month. The Managing Agent or Board of Managers shall prepare and deliver or mail to each owner a monthly statement for the estimated or actual expenses.

Contribution for monthly assessments shall be prorated if the ownership of a condominium unit commences on a day other than the first day of a month.

The assessments made for common expenses shall be based upon the cash requirements deemed to be such aggregate sum as the Board of Managers of the Association shall from time to time determine is to be paid by all of the condominium unit owners, including Declarant, to provide for the payment of all estimated expenses growing out of or connected with the maintenance, rental and operation of the units and of the general common elements, which sum shall include, but shall not be limited to, expenses of management; rental operation; taxes and special assessments, until separately assessed; premiums for fire insurance with extended coverage and vandalism and malicious mischief with endorsements attached issued in the amount of the maximum replacement value of all of the condominium units (including all fixtures; interior walls and partitions; decorated and finished surfaces of perimeter walls, floors and ceilings; doors, windows and other elements or materials comprising a part of the units); casualty and public liability and other insurance premiums; telephone; landscaping and care of grounds; common lighting and heating; repairs and renovations; trash collections; wages; water charges legal and accounting fees; management fees expenses and liabilities incurred by the Managing Agent or Board of Managers under or by reason of this Declaration; for any deficit remaining from a previous period; the creation of a reasonable contingency or other reserve or surplus funds as well as other costs and expenses relating to the general common elements. The omission or failure of the Board of Managers to fix the assessment for any month shall not be deemed a waiver, modification or a release of the owners from their obligation to pay.

21. Insurance. The Managing Agent, or if there is no Managing Agent, then the Board of Managers shall obtain and maintain at all times insurance of the type and kind provided hereinabove and including for such other risks, of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to

other condominium buildings, fixtures, equipment and personal property, similar in construction, design and use issued by responsible insurance companies authorized to do business in the State of Colorado. The insurance shall be carried in blanket policy form naming the Association the insured, as attorney-in-vact (for all of the condominium unit owners), which policy or policies shall identify the interest of each condominium unit owner (unit number, building number), and which policy or policies shall provide a standard, non-contributory mortgagee clause in favor of each first mortgagee, and that the policy cannot be cancelled or substantially modified until after thirty days prior written notice is first given to each owner and each first mortgagee.

The Managing Agent, or if there is no Managing Agent, then the Board of Managers shall also obtain and maintain, to the extent obtainable, public liability insurance in such limits as may from time to time be determined, covering each unit owner, each member of the Board of Managers, the Managing Agent, and the resident manager. Such public liability coverage shall also cover cross liability claims of one insured against another and shall contain waivers of subrogation.

Each owner may obtain additional insurance at his own expense for his own benefit provided that all such policies shall contain waivers of subrogation and provided, further, that the liability of the carriers issuing insurance shall not be affected or diminished by reason of any such insurance carried by any unit owner.

Insurance coverage on the furnishings and other items of personal property belonging to an owner and casualty and public liability insurance coverage within each individual unit shall be the responsibility of the owner thereof.

22. Owners' Personal Obligation for Payment of Assessments. The amount of the assessment shall be the personal and individual debt of the owner thereof. No owner may exempt himself from liability for the assessment by waiver of the use or enjoyment of any of the common elements or by abandonment of his real property interest. In the event of default in the payment of the assessment, the owner shall be obligated to pay interest at the rate of ten per cent per annum on the amount of the assessment from due date thereof, together with all expenses, including attorney's fees, incurred together with such late charges as provided by the By-Laws of the Association. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing same.

23. Assessment Lien. All sums assessed but unpaid for the share of expenses chargeable to any condominium unit shall constitute a lien on such unit superior to all other liens and encumbrances, except only for:

(a) Tax and special assessment liens on the unit in favor of any assessing unit, and

(b) All sums unpaid on a first mortgage or first deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrance.

To evidence such lien, the Board of Managers or the Managing Agent shall prepare a written notice of lien assessment setting

forth the amount of such unpaid indebtedness, the name of the owner of the condominium unit and a description of the condominium unit. Such a notice shall be signed by one of the Board of Managers or by one of the officers of the Association or by the Managing Agent and shall be recorded in the office of the Clerk and Recorder of the County of Gunnison, Colorado. Such lien for the common expenses shall attach from the date of the failure of payment of the assessment. Such lien may be enforced by the foreclosure of the defaulting owner's condominium unit by the Association in like manner as a mortgage on real property subsequent to the recording of a notice or claim thereof. In any such proceedings the owner shall be required to pay the costs, expenses and attorney's fees incurred for filing the lien, and in the event of foreclosure proceedings, the additional costs, all expenses and reasonable attorney's fees incurred. The owner of the condominium unit being foreclosed shall be required to pay to the Association the monthly assessment for the condominium unit during the period of foreclosure, and the Association shall be entitled to a receiver to collect the same. The Association shall have the power to bid in the condominium unit at foreclosure or other legal sale and to acquire and hold, lease, mortgage, vote the votes appurtenant to, convey or otherwise deal with the same.

Any encumbrancer holding a lien on a condominium unit may pay, but shall not be required to pay, any unpaid assessments remaining unpaid for longer than twenty-five days after the same are due; provided, however, that a mortgagee shall have furnished to the Managing Agent or to the Board of Managers notice of such encumbrance.

24. Liability for Common Expense upon Transfer of Condominium Unit is Joint. Upon payment of a reasonable fee not to exceed Fifteen Dollars and upon the written request of any owner or any mortgagee or prospective mortgagee of a condominium unit, the Association, by its Managing Agent, or if there is no Managing Agent, then by the financial officer of the Association, shall issue a written statement setting forth the amount of the unpaid common expenses, if any, with respect to the subject unit, the amount of the current monthly assessment and the date that such assessment becomes due, credit for advanced payments or for prepaid items, including but not limited to insurance premiums, which statement shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. Unless such request for a statement of indebtedness shall be complied with within ten days, all unpaid common expenses which become due prior to the date of making such request shall be subordinate to the lien of the person requesting such statement.

The grantee of a condominium unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his proportionate share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor; provided, however, that upon payment of a reasonable fee not to exceed Fifteen Dollars, and upon written request, any such prospective grantee shall be entitled to a statement from the Managing Agent or Board of Managers setting forth the amount of the unpaid assessments, if any, with respect to the subject unit, the amount of the current monthly assessment, the date that such assessment becomes due, and credits for advanced payments or for prepaid items, including but not limited to

insurance premiums, which statement shall be conclusive upon the Association. Unless such request for such a statement shall be complied with within ten days of such request, then such requesting grantee shall not be liable for, nor shall the unit conveyed be subject to a lien for any unpaid assessments against the subject unit. The provisions contained in this paragraph shall not apply upon the initial transfer of the condominium units by Declarant.

25. Mortgaging a Condominium Unit - Priority. Any owner shall have the right from time to time to mortgage or encumber his interest by deed of trust, mortgage or other security instrument. A first mortgage shall be one which has first and paramount priority under applicable law. The owner of a condominium unit may create junior mortgages on the following conditions: (1) That any such junior mortgages shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, lien for common expenses, and other obligations created by this Declaration, the Certificate of Incorporation and the By-Laws of the Association; (2) That the mortgagee under any junior mortgage shall release, for the purpose of restoration of any improvements upon the mortgaged premises, all of his right, title and interest in and to the proceeds under all insurance policies upon said premises which insurance policies were effected and placed upon the mortgaged premises by the Association. Such release shall be furnished forthwith by a junior mortgagee upon written request of one or more of the Board of Managers of the Association.

26. Association as Attorney-in-Fact. This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact to deal with the property upon its destruction, repair or obsolescence.

Title to any condominium unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed or other instrument of conveyance from the Declarant or from any owner or grantor shall constitute appointment of the attorney-in-fact herein provided. All of the owners irrevocably constitute and appoint Alpine Condominium Association, a Colorado corporation, not for profit, their true and lawful attorney in their name, place and stead for the purpose of dealing with the property upon its destruction or obsolescence as is hereinafter provided. As attorney-in-fact, the Association, by its President and Secretary or Assistant Secretary, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or any other instrument with respect to the interest of a condominium unit owner which are necessary and appropriate to exercise the powers herein granted. Repair and reconstruction of the improvement(s) as used in the succeeding subparagraphs means restoring the improvements(s) to substantially the same condition in which it existed prior to the damage, with each unit and the general and limited common elements having substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the Association for the purpose of repair, restoration or replacements unless the owners and all first mortgagees agree not to rebuild in accordance with the provisions set forth hereinafter.

(a) In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvement(s), shall be applied by the Association, as

attorney-in-fact, to such reconstruction, and the improvement(s) shall be promptly repaired and reconstructed. The Association shall have full authority, right and power, as attorney-in-fact, to cause the repair and restoration of the improvement(s).

(b) If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is not more than fifty per cent of all of the condominium units (the condominium project), not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, using the proceeds of insurance and the proceeds of an assessment to be made against all of the owners and their condominium units. Such deficiency assessment shall be a common expense and made pro rata according to each owner's percentage interest in the general common elements and shall be due and payable within thirty days after written notice thereof. The Association shall have full authority, right and power, as attorney-in-fact, to cause the repair or restoration of the improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an owner to pay the assessment. The assessment provided for herein shall be a debt of each owner and a lien on his condominium unit and may be enforced and collected as is provided in paragraph 23. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the condominium unit of any owner refusing or failing to pay such deficiency assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the condominium unit of the delinquent owner shall be sold by the Association, as attorney-in-fact, pursuant to the provisions of this paragraph. The delinquent owner shall be required to pay to the Association the costs and expenses for filing the notices, interest on the amount of the assessment and all reasonable attorney's fees. The proceeds derived from the sale of such condominium unit shall be used and disbursed by the Association, as attorney-in-fact, in the following order:

- (1) For payment of taxes and special assessments liens in favor of any assessing entity and customary expense of sale;
- (2) For payment of the balance of the lien of any first mortgage;
- (3) For payment of unpaid common expenses and all costs, expenses and fees incurred by the Association;
- (4) For payment of junior liens and encumbrances in the order of and to the extent of their priority; and
- (5) The balance remaining, if any, shall be paid to the condominium unit owner.

(c) If more than fifty per cent of all of the condominium units (the condominium project), not including land, are destroyed or damaged, and if the owners representing an aggregate ownership interest of fifty-one per cent, or more, of the general common elements, do not voluntarily, within one hundred days thereafter, make provisions for reconstruction, which plan must have the unanimous approval or consent of every first mortgagee, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's President and Secretary or Assistant Secretary, the entire remaining premises shall be sold by the Association, pursuant to the provisions of this paragraph, as attorney-in-fact for all of the owners, free and clear of the provisions contained in this Declaration, the Map and the By-Laws. The insurance settlement proceeds shall be collected by the Association, and such proceeds shall be divided by the Association according

to each owner's percentage interest in the general common elements, and such divided proceeds shall be paid into separate accounts, each such account representing one of the condominium units. Each such account shall be in the name of the Association, and shall be further identified by the condominium unit designation and the name of the owner. From each separate account the Association, as attorney-in-fact, shall forthwith use and disburse the total amount (of each) of such accounts, without contribution from one account to another, toward the partial or full payment of the lien of any first mortgage against the condominium unit represented by such separate account. Thereafter, each such account shall be supplemented by the apportioned amount of the proceeds derived from the sale of the entire property. Such apportionment shall be based upon each condominium unit owner's percentage interest in the general common elements. The total funds of each account shall be used and disbursed, without contribution from one account to another, by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in subparagraph (b) (1) through (5) of this paragraph.

If the owners representing an aggregate ownership interest of fifty-one per cent, or more, of the general common elements adopt a plan for reconstruction, which plan must have the unanimous approval or consent of every first mortgagee, then all of the owners shall be bound by the terms and other provisions of such plan. Any assessment made in connection with such plan shall be a common expense and made pro rata according to each owner's percentage interest in the general common elements and shall be due and payable as provided by the terms of such plan, but not sooner than thirty days after written notice thereof. The Association shall have full authority, right and power, as attorney-in-fact, to cause the repair or restoration of improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an owner to pay the assessment. The assessment provided for herein shall be a debt of each owner and a lien on his condominium unit and may be enforced and collected as is provided in paragraph 23. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the condominium unit of any owner refusing or failing to pay such assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the condominium unit of the delinquent owner shall be sold by the Association. The delinquent owner shall be required to pay to the Association the costs and expenses for filing the notices, interest at the rate of eight per cent per annum on the amount of the assessment and all reasonable attorney's fees. The proceeds derived from the sale of such condominium unit shall be used and disbursed by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in paragraph (b) (1) through (5) of this paragraph.

(d) The owners representing an aggregate ownership interest of eighty per cent, or more, of the general common elements may agree that the general common elements are obsolete and adopt a plan for the renewal and reconstruction, which plan must have the unanimous approval or consent of every first mortgagee of record at the time of the adoption of such plan. If a plan for the renewal or reconstruction is adopted, notice of such plan shall be recorded, and the expense of renewal and reconstruction shall be payable by all of the owners as common expenses; provided, however, that an owner not a party to such a plan for renewal or reconstruction may give written notice to the Association within fifteen (15) days after the date of adoption of such plan that such unit shall be purchased by the Association for the fair

market value thereof. The Association shall then have thirty days (thereafter) within which to cancel such plan. If such plan is not cancelled, the condominium unit of the requesting owner shall be purchased according to the following procedures. If such owner and the Association can agree on the fair market value thereof, then such sale shall be consummated within thirty days thereafter. If the parties are unable to agree, the date when either party notifies the other that he or it is unable to agree with the other shall be the "commencing date" from which all periods of time mentioned herein shall be measured. Within ten days following the commencement date, each party shall nominate in writing (and give notice of such nomination to the other party) an appraiser. If either party fails to make such a nomination, the appraiser nominated shall, within five days after default by the other party, appoint and associate with him another appraiser. If the two designated or selected appraisers are unable to agree, they shall appoint another appraiser to be umpire between them, if they can agree on such person. If they are unable to agree upon such umpire, each appraiser previously appointed shall nominate two appraisers, and from the names of the four appraisers so nominated one shall be drawn by lot by any judge of any court of record in Colorado, and the name so drawn shall be such umpire. The nominations from whom the umpire is to be drawn by lot shall be submitted within ten days of the failure of the two appraisers to agree, which in any event, shall not be later than twenty days following the appointment of the second appraiser. The decision of the appraisers as to the fair market value, or in the case of their disagreement, then such decision of the umpire, shall be final and binding. The expenses and fees of such appraisers shall be borne equally by the Association and the owner. The sale shall be consummated within fifteen days thereafter, and the Association, as attorney-in-fact, shall disburse such proceeds for the same purposes and in the same order as is provided in subparagraph (b) (1) through (5) of this paragraph, except as modified herein.

(e) The owners representing an aggregate ownership interest of eighty-five per cent, or more, of the general common elements may agree that the condominium units are obsolete and that the same should be sold. In such instance, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's President and Secretary or Assistant Secretary, the entire premises shall be sold by the Association, as attorney-in-fact for all of the owners, free and clear of the provisions contained in this Declaration, the Map and the By-Laws. The sales proceeds shall be apportioned between the owners on the basis of each owner's percentage interest in the general common elements, and such apportioned proceeds shall be paid into separate accounts, each such account representing one condominium unit. Each such account shall be in the name of the Association, and shall be further identified by the condominium unit designation and the name of the owner. From each separate account the Association, as attorney-in-fact, shall use and disburse the total amount (of each) of such accounts, without contribution from one account to another, for the same purposes and in the same order as is provided in subparagraph (b) (1) through (5) of this paragraph.

27. Personal Property for Common Use. The Association, as attorney-in-fact for all of the owners, may acquire and hold for the use and benefit of all of the condominium unit owners, real, tangible and intangible personal property and may dispose of the same by sale or otherwise. The beneficial interest in any such property shall be owned by all of the condominium unit

owners in the same proportion as their respective interests in the general common elements, and such interest therein shall not be transferable except with a transfer of a condominium unit. A transfer of a condominium unit shall transfer to the transferee ownership of the transferor's beneficial interest in such property without any reference thereto. Each owner may use such property in accordance with the purpose for which it is intended without hindering or encroaching upon the lawful rights of the other owners. The transfer of title to a condominium unit under foreclosure shall entitle the purchaser to the beneficial interest in such personal property associated with the foreclosed condominium unit.

28. Registration by Owner of Mailing Address. Each owner shall register his mailing address with the Association, and except for monthly statements and other routine notices, all other notices or demands intended to be served upon an owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the owner at such registered address. All notices, demands or other notices intended to be served upon the Board of Managers of the Association or the Association shall be sent by certified mail, postage prepaid, to Box 467, Crested Butte, Colorado, 81229, until such address is changed by a notice of address change duly recorded in the office of the Clerk and Recorder, Gunnison County, Colorado.

29. Period of Condominium Ownership. The separate condominium estates created by this Declaration and the Map shall continue until this Declaration is revoked in the manner and as is provided in paragraph 19 of this Declaration or until terminated in the manner and as is provided in subparagraphs (c) or (e) of paragraph 26 of this Declaration.

30. Reservation to Enlarge and Supplement Condominium Project.

(a) Declarant expressly reserves the right to enlarge this condominium project by constructing additional condominium buildings and other improvements on separate adjoining real property which (condominium units) are submitted to this condominium project, and such submission shall be expressed in and by a duly recorded supplement to this Declaration and by a supplement to the Map filed for record. Adjoining real property as the term is used herein shall mean a parcel or parcels having a common boundary with the real property described in Exhibit "A" except that such parcel(s) may be separated from the property described in Exhibit "A" by a roadway.

(b) In form and substance, the supplement to this Declaration shall provide for the division of such additional real property and improvements into condominium units substantially similar to the form of the division made of the real property and improvements as shown in Exhibit "B" of this Declaration. Each unit shall be identified by number, and each building shall be identified by a symbol or designation dissimilar to any other building under this Declaration and the Map. The undivided interest in and to the general common elements appurtenant to each such unit shall not be a part of the general common elements of the condominium units described in and initially created by this Declaration and the Map. The undivided interest in the general common elements shall have a permanent character and shall not be altered without the consent of all of the condominium unit owners expressed in a duly recorded Amendment to this Declaration.

(c) Except as is provided in paragraphs 3 and 4 of this Declaration, all of the provisions contained in this Declaration

shall be applicable to such additional condominium units; provided, however, that all of the owners of condominium units in this condominium project shall have a non-exclusive right, in common with all of the other owners, to the use of sidewalks, pathways and the parking area located or to be located within the condominium project without making reference thereto in any deed, instrument of conveyance or other instrument.

(d) Each condominium unit owner shall be entitled to vote his percentage or fractional interest in and to the general common elements, and the aggregate of all of the undivided interests submitted to and making up the total condominium project shall be considered one hundred per cent for such voting purposes.

31. Parking Areas. Subsequent to the complete development of the condominium project, but not later than ten years from the date of recording this Declaration, Declarant, its successors or assigns shall divest itself of the title to land and improvements allocated for automobile parking. Title to such property shall be conveyed to the Association, and the title shall be held by the Association for the use and benefit of all of the members of the Association, subject to the regulation and use thereof as established by the rules and regulations adopted by the Board of Managers.

32. General Reservations. Declarant reserves the right to dedicate any access roads and streets serving this condominium project for and to public use; to establish easements, reservations, exceptions and exclusions consistent with the condominium ownership of the condominium project and for the best interests of the condominium unit owners and the Association.

33. General.

(a) If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

(b) The provisions of this Declaration shall be in addition and supplemental to the Condominium Ownership Act of the State of Colorado and to all other provisions of law.

(c) That whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

IN WITNESS WHEREOF, Declarant, has duly executed this declaration this 15th day of May, 1969.

E & W Company

By Richard S. Eflin
Richard S. Eflin

FD-410 (Rev. 2-66)

STATE OF COLORADO)
) ss.
County of Gunnison)

The foregoing instrument was acknowledged before me
this 15th day of May, 1969, by Richard S. Eflin, a partner
of the E & W Company, a joint venture.

Witness my hand and official seal.

My commission expires _____ My Commission expires Nov. 7, 1970 _____.



Marsh Seraphine
Notary Public

EXHIBIT "A"
TO
CONDOMINIUM DECLARATION
FOR
ALPINE APARTMENTS
(A Condominium)

A parcel of land containing 0.683 acres located in the NE1/4 of Section 26, Township 13 South, Range 86 West of the Sixth Principal Meridian, County of Gunnison, State of Colorado, described as:

Commencing at the North 1/4 Corner of said Section 26; thence S52°02'E 1170.5 feet; thence S52°50'E 167.66 feet; thence N56°45'E 130.71 feet to the true point of beginning; thence traverse N56°45'E 125.00 feet; thence 230.65 feet along the arc of a curve to the right having a radius of 441.0 feet and a long chord which bears S33°39'E 228.03 feet; thence S71°20'W 140.00 feet; thence N30°36'W 192.99 feet to the true point of beginning.

EXHIBIT "B"
TO
CONDOMINIUM DECLARATION
FOR
ALPINE APARTMENTS
(A Condominium)

<u>Unit Number</u>	<u>Building</u>	<u>Appurtenant Undivided Interest (Fraction)</u>
1	A	One-tenth
2	A	One-tenth
3	A	One-tenth
4	A	One-tenth
5	A	One-tenth
6	A	One-tenth
7	A	One-tenth
8	A	One-tenth
9	A	One-tenth
10	A	One-tenth