

DECLARATION OF RESTRICTIONS

THIS DECLARATION is made as of the 4th day of May, 1984, by the KETCHIKAN GATEWAY BOROUGH (hereinafter referred to as "Declarant"), as the owner of the real property in the Ketchikan Gateway Borough, Alaska, described as Lots 2 through 11B, inclusive, of Block No. 1, Lots 1 through 14, inclusive, of Block No. 2, Lots 1 through 11, inclusive, of Block No. 3, and Lots 1A through 11B, inclusive, of Block No. 4, all as shown on that certain final subdivision plat entitled "Waterfall Creek Subdivision," recorded in the Office of the District Recorder, Ketchikan Recording District, First Judicial District, State of Alaska, as Plat No. 84-16, on the 4th day of May, 1984. Said real property is hereinafter referred to as the "Property" and each numbered lot within the final subdivision map covering the Property is hereinafter referred to as a "Lot".

SECTION 1. COVENANTS RUNNING WITH THE LAND. This Declaration hereby establishes and sets forth for the mutual benefit of Declarant and future owners of the Property, and of each Lot, protective provisions, covenants, conditions, restrictions, easements, equitable servitudes, agreements, charges, liens, and other matters herein set forth (collectively referred to herein as the "Restrictions") which are and shall be binding upon the Property and each Lot and which are expressly and exclusively for the use and benefit of the Property and of each Lot and of each and every person or entity who now or in the future is an owner of the Property or a Lot. The term "owner" means and refers not only to Declarant as present owner of the Property and to those hereafter acquiring title to any Lot, but also to all persons who may be or become entitled to purchase any Lot under contracts of sale and all persons having at any time hereafter a possessory interest in any Lot as tenants or otherwise, and their heirs, successors, and assigns. The

Restrictions shall run with the land and every part thereof and shall inure to the benefit of and be a burden upon the Property and each Lot and shall bind the respective heirs, successors and assigns of the owners of the Property and each Lot.

SECTION 2. EQUITABLE SERVITUDES. Declarant intends to subdivide and sell the Property for single-family residential development of detached homes and desires to subject the Property and each Lot to the Restrictions in order to implement a uniform, general and common plan designed to preserve the value and single-family residential qualities of the Property and each lot for the benefit of the Property and each Lot and for the mutual benefit of the owners of the Property and each Lot. The Restrictions are hereby imposed against the Property and each Lot as mutual and equitable servitudes in favor of the Property and each Lot.

SECTION 3. PROPERTY SUBJECT TO THIS DECLARATION. The Property and each Lot and all or any part of the Property shall be held and shall be conveyed, transferred, sold, hypothecated, encumbered, and used subject to the Restrictions set forth herein.

SECTION 4. RESTRICTIONS. (a) The Property is subjected to the following Restrictions to insure appropriate development and improvement of each Lot; to protect the owners of Lots against the improper use or subdivision of neighboring Lots which could depreciate the value of their property; to preserve the natural beauty of the Property after development thereof in accordance with these Restrictions; to guard against the subdivision or erection thereon of structures not allowed by the restrictions, and in general to provide for a high quality of improvement on

the Property, and thereby to enhance the values of investments made by owners of Lots therein:

(1) The configuration, shape and size of all Lots shall be and remain as shown and reflected on that certain final subdivision plat entitled "Waterfall Creek Subdivision" recorded on May 4, 1984, as Plat No. 84-16, in the Office of the District Recorder, Ketchikan Recording District, First Judicial District, State of Alaska, to which reference is hereby made and by such reference incorporated herein, and no Lot shown on said subdivision plat shall be rearranged or further divided or subdivided.

(2) No lots shall be used except for single family residential purposes. No building or structure shall be erected, altered, placed, maintained or permitted to remain on any Lot other than one (1) detached single-family private dwelling, and other appropriate and permitted buildings and improvements incidental to the above described residential use of the premises.

(b) The breach of or failure to comply with one or more of the Restrictions shall entitle any person or persons owning a Lot or a portion of the Property or Declarant to enjoin, abate, or remedy any such breach or failure to comply or to remove any condition, thing or situation arising contrary to any of the provisions contained herein, to bring and maintain appropriate legal proceedings for that purpose, and/or shall further entitle Declarant or any such owner to recover damages resulting from any such breach or failure to comply. Should any action or suit be commenced for the enforcement of any of said provisions, or for damages for breach thereof, the owner or possessor against

who such action or suit shall be commenced shall be liable to the Declarant or any owner who brings such action or suit for all costs and expenses and attorneys' fees incurred. A waiver by Declarant or by the owners of a breach of any of the Restrictions contained herein, or of the right to correct any failure to comply therewith, shall not in any instance constitute a continuing waiver of said breach nor shall it constitute a waiver of any other or subsequent breach, whether or not similar to the foregoing.

(c) Each of the Restrictions described above is hereby declared to be subject and subordinate to the lien of any mortgage or deed of trust now or hereafter existing made in good faith and for value, and shall in no way restrict, impair or defeat any right of sale contained in any such mortgage or deed of trust or the foreclosure of the same; provided, however, that title to any property subject to the Restrictions and obtained through sale under foreclosure of any such mortgage or deed of trust, shall thereafter be held subject to all of said Restrictions.

Section 5: Term. Each and all of the Restrictions, and all the burdens and benefits, shall run with the land and remain in effect for a period of ninety-nine (99) years, after which time said Restrictions shall be automatically extended for successive periods of twenty (20) years each unless each and all of the then owners of all Lots elect to terminate or amend the restrictions by an instrument properly signed by each of such owners, and recorded in the Office of the District Recorder, Ketchikan Recording District, First Judicial District, State of Alaska.

Section 6. INVALIDITY. In the event any of the Restrictions shall be invalid, or shall be held invalid or

void by any court of competent jurisdiction, such invalidity or such void Restriction shall in no way affect any other condition, covenant, restriction, agreement, charge, lien or other matter herein contained.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day and year first hereinabove written at Ketchikan, Alaska.

KETCHIKAN GATEWAY BOROUGH,

By: *Gary Bloomquist*
Gary Bloomquist
Borough Manager

ATTEST:

Georgianna Booth
Georgianna Booth
Borough Clerk

84-1732
20-
RECORDED-FILED
KETCHIKAN ALASKA
DISTRICT I
MAY 7 10 58 AM '84
REQUESTED BY KGB
ADDRESS 344 Strand
Ketchikan 99501

STATE OF ALASKA)
FIRST JUDICIAL DISTRICT) ss:

THIS IS TO CERTIFY that on this 7th day of MAY, 1984, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared GARY BLOOMQUIST and GEORGIANNA BOOTH to me known to be the Borough Manager and Borough Clerk of the KETCHIKAN GATEWAY BOROUGH, a Municipal Corporation, the corporation which executed the above and foregoing instrument, and who on oath stated that they were duly authorized to execute the foregoing extension of contract and affix the corporate seal thereto on behalf of said corporation, and that the seal affixed thereto is the corporate seal thereof, and acknowledged that they signed the same freely and voluntarily on behalf of said corporation for the uses and purposes therein mentioned.

WITNESS my hand and official seal the day and year
in this certificate above written.

Lore E. McQuinn
NOTARY PUBLIC FOR ALASKA
My Commission Expires: 12-13-87

