

**CONDOMINIUM NO. 321  
WENTWORTH (A CONDOMINIUM)**

DECLARATION

**THIS DECLARATION** is made this 3rd day of February, 1982 by Baton Corporation, a Minnesota corporation (hereinafter referred to as "Declarant"), pursuant to the provisions of the Minnesota Uniform Condominium Act, Minnesota Statutes Sections 515A.1-101 to 515A.4-117 (hereinafter referred to as the "Act"), as amended.

**WHEREAS**, the Declarant is the fee simple owner of that certain Real Estate situated in Hennepin County, Minnesota, legally described as:

Lots 2 through 14 inclusive and Lot 15, except the North 12 feet thereof, Block 6, Cable Line Addition to Minneapolis, together with the vacated alley adjoining said lot and lying between the extensions across it of the Southerly line of said Block 6 and the South line of the North 12 feet of said Lot 15, according to the plat thereof on file and of record in the office of the County Recorder, in and for Hennepin County, Minnesota.

(hereinafter referred to as the "Real Estate"); and

**WHEREAS**, Declarant proposes the development of the Real Estate by the construction of twenty-six (26) residential units thereon.

**NOW, THEREFORE**, in order to establish the Real Estate as a Condominium pursuant to the Act, Declarant hereby declares that the Real Estate is subject to the covenants, restrictions, terms and conditions hereinafter set forth in this Declaration, which shall constitute covenants running with the Real Estate and shall be binding on Declarant, its successors and assigns, and on all subsequent holders of any right, title or interest in or to all or any part of the Real Estate, their grantees, successors, heirs, personal representatives, devisees and assigns.

1. **Name.** The name of this Condominium is Wentworth (A Condominium). The County in which the Condominium is situated, and the legal description of the Real Estate included in the Condominium are as hereinabove set forth.

2. **Condominium Units.** There will be twenty-six separate units as shown on the Floor Plans depicting all the information required by Section 515A.2-110 of the Act, which Floor Plans are hereby incorporated herein and made a part hereof (hereinafter referred to as the "Floor Plans"). The identifying number, location, boundaries and approximate area of each of the twenty-six Units established hereby are set forth in Exhibit A attached hereto and/or on the Floor Plans. The boundaries of each Unit shall be the interior unfinished surface of the walls, floors and ceilings thereof depicted as boundaries in the Floor Plans. Accordingly, all lath, furring, wallboard, plasterboard, and plaster constituting a part of the wall shall be deemed to be outside of the Unit and any paneling, tile, wallpaper, paint, carpeting, linoleum or other wall or floor coverings shall be deemed to be included within the Unit. Each of the twenty-six Units is hereby allocated one vote in the Association. The percentages

of undivided interests in the Common Elements and the percentages of the Common Expenses of the Association are hereby allocated to the Units according to the proportion of the approximate area of each Unit to the approximate area of all of the Units. The percentages of undivided interests in the Common Elements and of the Common Expenses of the Association allocated to each Unit on such basis is the Percentage Interest set forth opposite each such Unit in Exhibit A attached hereto. No Unit shall be partitioned or subdivided.

3. **Common Elements.** All portions of the Real Estate other than the Units are Common Elements. Certain portions of the Common Elements are hereby set aside and designated as reserved for the exclusive use by a certain Unit to the exclusion of other Units, and such portions shall be known as Limited Common Elements. In addition to the Limited Common Elements specified in Section 515A.2-102(2) and (4) of the Act, the Limited Common Elements reserved for the exclusive use of the respective Units are the driveways, steps, porch and sidewalks serving a particular Unit which are hereby allocated to the respective Units served thereby.

4. **Use of the Condominium.** The Condominium and each of the Units shall be used and occupied in accordance with the following provisions:

A. **Residential Use Only.** The Condominium and each of the Units are intended for residential purposes only. No use may be made of any Unit except that of a residence for the Unit Owner thereof, their families, tenants and social guests and no business or commercial use shall be permitted on the Real Estate except as specifically provided in this Declaration and except that the Association may maintain an office in one of the Units for management purposes.

B. **Use for Sales Purposes.** Declarant may maintain a sales office, management office and model within any Unit in the Condominium and such sales office, management office and model may be relocated by Declarant from time to time provided that no more than one Unit shall be used for such purposes at any one time.

C. **Rental of Units.** With the exception of a lender in possession of the Unit following a default in a first mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no Unit Owner shall be permitted to lease his Unit for transient or hotel purposes, which shall be defined as (a) rental for any period less than 30 days; or (b) any rental if the occupants of the Unit are provided customary hotel services, such as room service for the food and beverage, maid service, furnishing laundry and linen and bell boy service. The Unit Owners of the respective Units shall not lease less than the entire Unit. Any lease arrangement shall be required to provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, and the By-laws and Articles of Incorporation of the Association, shall contain the agreement of the lessee to be bound by the terms of such documents and shall provide that any failure by the lessee to comply with the terms of such documents shall be a default under the lease or rental agreement. All leases shall be required to be in writing and any Unit Owner leasing or renting a Unit shall, prior to the commencement of the lease or rental term, deliver to the

Secretary of the Association a complete copy of the lease or rental agreement. Other than the foregoing, the Unit Owners of the respective Units shall have the absolute right to lease the same.

D. **Easements for Encroachments.** If, as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the Condominium, any portion of the Common Elements encroaches upon a Unit or Units or any portion of a Unit encroaches upon the Common Elements or upon an Adjoining Unit or Units, a valid easement for the encroachment and for the maintenance thereof, 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 Common Elements or on the Units for the purposes of marketability of title. In the event the Real Estate is partially or totally destroyed, and then rebuilt, the Unit Owners shall permit minor encroachment of parts of the Common Elements, and of other Units, due to reconstruction, and a valid easement for said encroachments and the maintenance thereof shall exist.

E. **Rules.** Each Unit Owner, occupant, tenant or guest shall use the Units and the Common Elements only in compliance with the provisions of the Act, this Declaration and the By-laws, all as lawfully amended from time to time, and with the Rules attached hereto as Exhibit B, which Rules are incorporated herein as fully as if set forth herein, and with all decisions, resolutions and rules of the Association. Failure to comply with any such provisions, rules, decisions or resolutions shall be grounds for an action to recover sums due for damages or for injunctive relief, or both.

5. **Maintenance and Repair.**

A. Every Unit Owner shall perform promptly all maintenance and repair work required within his own Unit which, if not performed, would affect the Common Elements or another Unit or Units. Upon the failure of any Unit Owner to perform his responsibilities under this paragraph, the Association may perform the same and such Unit Owner shall be liable to the Association for all expenses incurred by the Association in performing the same. All incidental damage or liability caused to a Unit or Units or to the Common Elements by the failure of a Unit Owner to perform his obligations under this paragraph or caused in the course of performing such obligations shall be the responsibility of the Unit Owner.

B. If maintenance, repairs or replacements to the Common Elements or the the Unit of another Unit Owner are necessitated by the negligence, misuse or neglect of a Unit Owner, the expense thereof shall be charged to such offending Unit Owner.

C. Any driveways, steps or sidewalks which constitute a part of the Limited Common Elements hereunder shall be maintained by the respective Unit Owners and shall not be a Common Expense. Maintenance of Limited Common Elements shall include snow removal.

D. The Association is responsible for the maintenance, repair and replacement of the Common Elements, and repair and replacement of the Limited

Common Elements. Any Common Expense associated with the repair or replacement of a Limited Common Element shall be assessed against all the Units in accordance with the Common Expense liability allocated to each Unit hereunder, and shall not be assessed solely against the Unit or Units to which such Limited Common Element is assigned.

E. All incidental damage caused to any Unit by such work as may be done by the Association in accordance with its responsibilities as set forth herein or in the Act or by any damage to, failure of or malfunction of anything to be maintained, repaired or replaced by the Association in accordance with the provisions hereof or in the Act, shall be paid by the Association to the Unit Owner of the damaged Unit.

6. **Required Insurance.** Commencing not later than the time of the first conveyance of a Unit to a Unit Owner other than Declarant, and in addition to the requirements of the Act, the Association shall maintain, to the extent reasonably available, the following insurance: (a) fire insurance with extended coverage endorsement (including vandalism, sprinkler leakage, debris removal, cost of demolition, malicious mischief, windstorm and water damage) insuring the building containing the Units (including all building service equipment and all of the Units and the fixtures installed therein as of the date hereof, and specifically including, without limiting the generality of the foregoing, interior walls, interior doors, built-in cabinets and counters and electrical and plumbing conduits, pipes and fixtures installed therein as of the date hereof, but not including carpeting, drapes, wallcoverings, fixtures, furniture, furnishings, or other personal property supplied or installed by Unit Owners) and covering the interest of the Association, the Board of Directors and all Unit Owners and their mortgagees, as their interests may appear, for full insurable replacement cost, as determined annually by the Board of Directors; (b) workmen's compensation insurance; (c) comprehensive public liability insurance in such amounts (but not less than \$1,000,000 for any one occurrence) and with such coverage as the Board of Directors shall from time to time determine, but at least covering events occurring anywhere on the Common Elements or arising out of or in connection with the use, ownership or maintenance of the Common Elements, and insuring each officer and member of the Board of Directors, the managing agent and each Unit Owner and with cross liability endorsement to cover liabilities of the Unit Owners as a group to a Unit Owner and with a "Severability of Interest Endorsement" which would preclude the insurer from denying the claim of a Unit Owner for the negligent act of another Owner, occupant or the Association; and (d) such other insurance as the Board of Directors may determine. If reasonably available, the policy or policies of fire and extended coverage shall contain a stipulated amount clause, or determinable cash adjustment clause, or similar clause to permit a cash settlement covering specified value in the event of destruction and a decision not to rebuild. The Board of Directors may from time to time designate the insurance trustee to receive proceeds.

All policies of physical damage insurance shall contain waivers of subrogation and waivers of any reduction of pro-rata liability of the insurer as a result of any insurance carried by Unit Owners or of invalidity arising from any acts of the insured or any Unit Owners. Provision shall be made for issuance of certificates of physical damage insurance to mortgagees.

Each Unit Owner shall carry insurance for his own benefit insuring his personal liability, and his carpeting, drapes, wallcovering, fixtures, furniture, furnishings and other personal property, and fixtures and other property supplied or installed by him or a previous Unit Owner of tenant, provided that all such policies shall contain waivers of subrogation and further provided that the liability of the carriers issuing insurance obtained by the Association shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner.

In addition to the foregoing powers, and not in limitation thereof, the Board of Directors shall have the authority at all times without action by the Unit Owners to obtain and maintain in force all coverages and endorsements required by either Federal National Mortgage Association or Federal Home Loan Mortgage Corporation for the acceptance of mortgages on Units, as such requirements are amended from time to time.

Insurance premiums for any blanket property insurance coverage and the other insurance coverages purchased by the Association, shall be Common Expenses to be paid by assessments levied by the Association, and such assessments shall be held in a separate escrow account of the Association and used solely for the payment of the blanket property insurance premiums and other insurance premiums as such premiums become due.

7. **Rights of First Mortgagees.** The following provisions shall take precedence over all other provisions of this Declaration, and in the event of any inconsistency or contradiction, the following provisions shall control:

A. A first mortgagee of a Unit or its assigns, upon request, will be entitled to written notification from the Association of any default in the performance by the Unit Owner of any obligation under this Declaration or By-laws which is not cured within thirty (30) days.

B. In addition to statutory requirements for amendment of this Declaration and By-laws, unless at least seventy-five percent (75%) (or such higher percentage as is required by law or this Declaration) of the first mortgagees of the Units or their assigns (based upon one vote for each first mortgage owned), and Unit Owners (other than any sponsor, developer, or builder including the Declarant) of the Units have given their prior written approval, the Association shall not be entitled to:

(i) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements shall not be deemed such a transfer).

(ii) Use hazard insurance proceeds for losses to any Condominium property (whether to Units or to Common Elements) for other than the repair, replacement or reconstruction of such Condominium property, except as provided by statute in case of substantial loss to the Units and/or Common Elements of the Condominium.

C. In addition to statutory requirements for amendment of this Declaration and the By-Laws, the prior written approval of each and every holder of a first mortgage lien on Units in the Condominium and the prior written approval of at least seventy-five percent (75%) (or such higher percentage as is required by law or this Declaration) of Unit Owners (other than any sponsor, developer, or builder including the Declarant) of the Units shall be required for:

(i) Any material amendment to the Declaration or to the By-Laws of the Association;

(ii) The effectuation of any decision by the Association to engage professional management and terminate self-management of the Condominium.

D. Any holder of a first mortgage on a Unit in the Condominium will, upon request, be entitled to: (a) inspect the books and records of the Condominium during normal business hours; and (b) receive an annual audited financial statement of the Condominium within ninety (90) days following the end of any fiscal year of the Condominium; and (c) written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings.

E. Condominium assessments for Common Expenses shall include an adequate reserve fund for maintenance, repair and replacement of those Common Elements that must be maintained, repaired or replaced on a periodic basis, and shall be payable in regular installments rather than by special assessments.

F. No provision of this Declaration or of the By-Laws shall be deemed to give a Unit Owner, or any other party, priority over any rights of first mortgagees of Units, or their successors in interest, pursuant to their mortgages in the case of a distribution to the Unit Owners of insurance proceeds or condemnation awards or settlements for losses to or a taking of Units and/or Common Elements. In the event of substantial damage to or destruction of any Unit or any part of the Common Elements, the holder of any first mortgage on a Unit will be entitled a timely written notice of any such damage or destruction. If any Unit or portion thereof or the Common Elements or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the holder of any first mortgage on a Unit will be entitled to timely written notice of any such proceeding or proposed acquisition.

G. The right of a Unit Owner to sell, transfer, or otherwise convey the Owner's Unit will not be subject to any right of first refusal or any similar restriction in favor of the Association.

H. If the Owner of a first mortgage of record on a Unit or a purchaser at a mortgage foreclosure obtains title to, or comes into possession of, a Unit pursuant to the remedies provided in the mortgage or by foreclosure of the first mortgage or by deed or assignment in lieu thereof, such acquirer of title or possession, his successors and assigns, shall not be liable for the share of the unpaid Common Expenses or assessments chargeable to such Unit which accrued

prior to the acquisition of title or possession to such Unit by such acquirer. Such unpaid share of the Common Expenses or assessments shall be deemed to be Common Expenses collectible from all of the Unit Owners, including such acquirer, his successors and assigns.

8. **Miscellaneous.**

A. **Termination.** Except in the case of a taking of all of the Units by eminent domain, this Condominium may be terminated only by the written agreement of all Unit Owners and of all first mortgagees of Units, and may not be abandoned, nor may such termination or abandonment be sought by act or omission, without such unanimous consent.

B. **Right of Association to Hold Unit.** Subject to the provisions of the By-laws, the Board of Directors, acting on behalf of the Association, shall have the power to acquire, hold, lease, mortgage and convey a Unit, including the power to purchase a Unit at the foreclosure sale for unpaid assessments.

C. **Remedies of Association.** In the event of the failure of any Unit Owner to comply with the provisions of this Declaration, the Articles or By-laws of the Association, or the Rules of the Association, the association or any aggrieved Unit Owner may bring an action for the recovery of damages, injunctive relief or both. Suit to recover a money judgment for unpaid Common Expenses or for other amounts owing the Association may be maintained by the Association without foreclosing or waiving the lien securing the same.

D. **Supplemental to Law.** The provisions of this Declaration shall be in addition to and supplemental to the Act and to all other provisions of law.

E. **Definition of Terms.** As used in this Declaration or in the By-laws of the Association, any words or terms defined in the Act shall have the meaning there ascribed to them. The singular shall be deemed to include the plural wherever appropriate; and unless the context clearly indicates to the contrary, any obligation imposed shall be joint and several. The "Association" shall mean Wentworth Homeowners Association, Inc.

F. **Ordinances.** This Condominium is a Conversion Condominium as defined in the Act and is located in the City of Minneapolis, Minnesota. Declarant has complied with all conditions required under the ordinances of the City of Minneapolis as a condition to the creation of this Condominium.

G. **Administration.** The Unit Owners of Units in the Condominium covenant and agree that the administration of the Condominium shall be in accordance with the provisions of the Act, this Declaration, and the By-laws of the Association.

H. **Joinder of Declarant.** In addition to the statutory requirements for the amendment of this Declaration and the By-laws of the Association, and the requirements for such amendment as set forth herein, the written joinder in consent of the Declarant shall be required for any amendment of either the





**EXHIBIT A**  
**TO DECLARATION:**

**WENTWORTH (A CONDOMINIUM)**  
**CONDOMINIUM NO. 321**

<u>Unit No.</u>	<u>Approximate Area-Sq. Ft.</u>	<u>Percentage Interest</u>
1	1663.92	.040963193
2	1663.92	.040963193
3	1663.92	.040963193
8	1663.92	.040963193
9	1663.92	.040963193
10	1663.92	.040963193
11	1663.92	.040963193
12	1663.92	.040963193
15	1663.92	.040963193
16	1663.92	.040963193
17	1663.92	.040963193
18	1663.92	.040963193
25	1663.92	.040963193
26	1663.92	.040963193
4	1443.75	.035542941
5	1443.75	.035542941
6	1443.75	.035542941
7	1443.75	.035542941
13	1443.75	.035542941
14	1443.75	.035542941
19	1443.75	.035542941
20	1443.75	.035542941
21	1443.75	.035542941
22	1443.75	.035542941
23	1443.75	.035542941
24	1443.75	.035542941
	40,619.88 sq. ft.	1.00

**EXHIBIT B**

**TO DECLARATION:**

**WENTWORTH (A CONDOMINIUM)**

**CONDOMINIUM NO. 321**

1. No more than five (5) persons shall be permitted to be permanent residents of a two (2) bedroom Unit, and no more than six (6) persons shall be permitted to be permanent residents of a three (3) bedroom Unit.

2. No unlawful, noxious or offensive activities shall be carried on in any Unit or elsewhere in the Condominium, nor shall anything be done therein or thereon which shall constitute a nuisance or which shall in the judgment of the Board of Directors cause unreasonable noise or disturbance to others.

3. No Owner shall display, hang or store any clothing, sheets, blankets, laundry or other articles outside his Unit, or which may be visible from the outside of his Unit (other than draperies, curtains, or shades of a customary nature and appearance and in any event subject to the rules and regulations of the Board of Directors), or paint or decorate or adorn the outside of his Unit, or install antenna, or other equipment, fixtures, or items of any kind, without the prior written permission of the Board of Directors. The foregoing restrictions as to use and occupancy shall not be construed to prohibit an Owner from placing and maintaining outdoor furniture of a customary nature and appearance which is consistent with the character of the buildings, in a yard which is a Common Area appurtenant to his Unit, provided however, that any such usage is in compliance with all applicable laws and regulations and with any rules and regulations from time to time enacted by the Board of Directors. No Owner of a Unit shall display, hang, store or use any sign outside his Unit, in a hallway or elsewhere, or which may be visible from the outside of his Unit without the prior written permission of the Board of Directors.

4. No animal of any type shall be kept in any Unit or in the Common Areas and Facilities, unless and until the Board of Directors has enacted rules and regulations specifically permitting the keeping of such type of animal. The Board of Directors shall have complete discretion as to whether or not it will permit the keeping of animals of any particular type. The Board of Directors shall also have complete discretion as to the substance of any administrative rules and regulations enacted by it regarding the manner in which any permitted animal shall be kept, provided that the Board of Directors may not, in any case, permit the keeping of any animal for any commercial purpose. The Board of Directors shall have the right at any time, to change its rules and regulations relating to animals. Such right shall include the right to prohibit the keeping of any animal of a type permitted to be kept by previously enacted rules and regulations. Any animal permitted to be kept shall be kept in strict accordance with the administrative rules and regulations relating to such animals from time to time approved by the Board of Directors and shall not in the judgment of the Board of Directors constitute a nuisance to others.

When deemed appropriate by the Board of Directors, it may, but shall not be required to, enact rules and regulations permitting the keeping of a specific type of animal in one or more, but not all, Units when special circumstances are present. An example of the special circumstances contemplated hereby is the need for a seeing eye dog. Any animal permitted to be kept under special circumstances must be kept in strict accordance with the rules and regulations applicable thereto enacted, from time to time, by the Board of Directors and shall not in the judgment of the Board of Directors constitute a nuisance to others.

5. Trash, garbage and other waste shall be kept only in sanitary containers, and shall be disposed of in a clean and sanitary manner as prescribed from time to time in the rules and regulations of the Board of Directors.

6. Except as provided in this Declaration or as permitted by the rules and regulations adopted from time to time by the Board of Directors, articles of personal property belonging to any Owner, such as baby carriages, bicycles, wagons, toys, furniture, clothing, sporting equipment and other articles, shall not be stored or kept in any Common Areas, except in areas specifically designated by the Board of Directors for such storage or keeping, if any.

7. No Owner shall overload the electrical wiring in the buildings, or operate any machines, appliances, accessories or equipment in such manner as to cause, in the judgment of the Board of Directors, an unreasonable disturbance to others, or connect any machines, appliances, accessories or equipment to any heating or plumbing system, without the prior written consent of the Board of Directors.

8. The Board of Directors may, from time to time, promulgate rules and regulations regarding the use of the Common Areas and Facilities, and the maintenance of the Limited Common Areas, provided that such rules shall be reasonable in scope and shall tend to promote the use of the Condominium and the Units for the purposes set forth herein.