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FIRST AMENDMENT

TO THE

ENABLING DECLARATION AND BY-LAWS

OF

LAKEVIEW TERRACE CONDOMINIUMS

RECORDED AT REQUEST OF  
*Robert G. Larson*

1987 OCT -1 PM 3:23

CAROL DEAN PAGE  
DAVIS COUNTY RECORDER

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*Lakeview Terrace 62  
All Lakeview Terrace  
Condo.*

This First Amendment to the Enabling Declaration and By-Laws of Lakeview Terrace Condominiums is made and executed this 1st day of October, 1987 by Robert G. Larson, Kent N. Wheelwright and Kenneth Kerr, who constitute the present Management Committee of the Lakeview Terrace Condominium Project, pursuant to Section 25 of Article III of the Enabling Declaration of Lakeview Terrace Condominiums, "Declaration", recorded November 14, 1979 in Book 801 at Page 487 as Entry Number 550444, records of the Davis County Recorder.

I.

RECITALS

1. The Lakeview Terrace Condominium Project was originally established as an expandable project. The seven-year time limit for expansion provided by Section 57-8-10(4) of the Utah Condominium Ownership Act and by Section 23, Article III of the Declaration has expired without any expansion of the project of any kind having occurred.

2. Under and by virtue of the operation of Sections 57-8-16.5 and 57-8-10 of the Utah Condominium Act, the right of original Declarant, First of Denver Mortgage Investors, now known as Property Investors of Colorado, to designate the Management Committee also expired with the expiration of said seven-year time limit.

3. The original Declarant abandoned the project in 1985, ceasing to actively manage the same without making any final financial

report. Robert G. Larson, Kent N. Wheelwright and Kenneth Kerr thereupon assumed, with the consent of all unit owners, to manage and operate the common areas and facilities. Any and all others whom the original Declarant may have heretofore named as members of the Management Committee are hereby removed from office.

4. The owners of the existing ten condominium units in the project have the right to select the Management Committee and have determined that the members of the Management Committee shall be the three Trustee members of the Governing Board of Lakeview Terrace Unit Owners Association, a non-profit association of the owners of Lakeview Terrace condominium units, which was incorporated under the laws of the State of Utah as a non-profit corporation on September 26, 1986. A copy of the corporation's Articles of Incorporation are annexed hereto marked Exhibit "A".

5. The original and presently existing Governing Board of said non-profit corporation consists of three owners of Lakeview Terrace Condominium units, to wit, Robert G. Larson, Kent N. Wheelwright and Kenneth Kerr. These are hereby constituted as the present Management Committee with all of the rights and duties provided by law and the Enabling Declaration and By-Laws. All of their past actions as the defacto management committee to date are hereby ratified and affirmed.

## II.

### FIRST AMENDMENT TO THE ENABLING DECLARATION

The Enabling Declaration is hereby amended as follows:

Section 18, Article III of the Enabling Declaration as presently written is hereby repealed. The following is hereby substituted therefore:

18. Management Committee. The Management Committee shall consist of three persons, all of whom shall be unit owners and all of whom shall be Trustee members of the Governing Board of Lakeview Terrace Unit Owners Association. Said three persons constituting the Governing Board of said Association and the Management Committee shall be Robert G. Larson, Kent N. Wheelwright and Kenneth Kerr until their successors are duly selected. Robert G. Larson shall serve for one year, Kent N. Wheelwright shall serve for two years, Kenneth Kerr shall serve for three years. Each shall continue to serve until his successor shall have been elected or selected.

### III.

#### FIRST AMENDMENT TO THE LAKEVIEW TERRACE CONDOMINIUM BY-LAWS

The Lakeview Terrace Condominium By-laws are hereby amended as follows: Each section referred to below as it is presently written in the original By-laws is hereby repealed. The below provisions are hereby substituted therefor:

#### Section 1, Article II:

1. Composition of Association. All unit owners acting as a group in accordance with the Act, the Declaration and the By-laws shall constitute the Association defined by the Utah Condominium Ownership Act and the Association for the benefit of which the Lakeview Terrace Unit Owners Association was incorporated. All unit owners shall automatically be members of the Lakeview Terrace Unit Owners Association, a Utah non-profit corporation. All meetings of the unit

owners as an association shall also be meetings of the members of the Lakeview Terrace Unit Owners Association. Except as to matters which the Utah Condominium Ownership Act specifically requires to be performed by the vote of the unit owners, the administration of the condominiums shall be performed by the Management Committee.

Section 4, Article II:

4. Annual Meeting. An annual meeting of the owners of the ten units who constitute the Association shall be held on the first Saturday of October of each year starting in 1988 at the registered office of the Lakeview Terrace Unit Owners Association beginning at the hour of 6:00 p.m. unless the Management Committee sets a different time and place for the annual meeting in the month of October, in which event, the annual meeting shall take place as so noticed.

Section 5, Article II:

5. Special Meetings. Special meetings of the Association may be called by the Management Committee, by the President, by any two other officers of the Association and by the owners of at least four (4) units. Requests for the holding of special meetings may be made by a lesser number of unit owners. Any such request shall be made in writing and shall include an identification of the subject matter or matters the unit owners desire considered and shall be delivered to the Management Committee or to the President of the Association.

Section 4, Article III:

4. Election of Trustee Members of the Management Committee. Each year commencing at the annual meeting of the Association to be held in October 1988, the Association shall elect one Trustee member

of the Governing Board to take the place of the Trustee member whose term then expires. The terms of the present members of the Governing Board shall expire as follows: Robert G. Larson, October 1988; Kenneth Kerr, October 1990; Kent N. Wheelwright, October 1989. Each Trustee elected by the Association shall serve a term of three years. A nominating committee of at least three unit owners, which nominating committee shall be selected by the Management Committee and which nominating committee may be the Management Committee, shall nominate at least one person. Additional nominations may be made by the members of the Association. Voting shall be by secret ballot unless dispensed with by the unanimous consent of the owners present at the meeting.

Election shall require a majority of the unit votes cast. Each Trustee shall serve until his successor is elected or until his death, resignation or removal.

Section 5, Article III: is deleted without substitution.

Section 6, Article III:

6. Regular Meetings. Meetings of the Management Committee shall be called, held and conducted at least quarterly in accordance with such procedures as the Management Committee may adopt. All unit owners are entitled to attend meetings of the Management Committee. Management Committee meetings shall be deemed meetings of the Governing Board of Trustees of the Lakeview Terrace Unit Owners Association. The Management Committee shall select a Chairman. Notice of the time and place of each meeting shall be given by the Chairman to the other two members. Notice may be given personally, by mail or by telephone.

Section 7, Article III: is deleted without substitution.

Section 10, Article III:

10. Vacancies. Except as to vacancies occurring through the removal of Trustees by action of the Association members, vacancies in the Governing Board and Board of Trustees occurring between annual meetings of the Association shall be filled by the remaining members of the Governing Board. Any committee member may resign by giving written notice of resignation to the other two committee members.

Section 11, Article III:

11. Removal of Committeemen. Any committeemen may be removed by the Association members by the concurrence of a majority of the members of the Association represented in person or by proxy at any meeting of the Association called for that purpose. Any vacancy in the Management Committee so created shall be filled by vote of the Association members at the same meeting.

Section 12, Article III:

12. Compensation. Management Committee members shall receive no compensation for acting as such unless otherwise agreed by vote of a majority of the members of the Association. Members of the Management Committee and other officers and agents of the Association shall be reimbursed their reasonable expenses incurred in the course of their service on behalf of the Association. Members of the Management Committee and officers and agents of the Association may be compensated for their services in performing maintenance or other services which are not rendered by them in their capacity as Trustee members of the Management Committee or officers, without approval by the members of the Association.

## Section 1, Article IV:

1. Designation of Officers. Officers of the Association will be appointed by the Management Committee. Officers shall include a President who shall be the chief operating officer of the Association. Other officers may include a Vice President, Treasurer and Secretary. The President shall be a member of the Management Committee. A person may hold two or more offices, except that the offices of President and Secretary shall not be held by one person. Officers appointed by the Management Committee may be removed and replaced by the Management Committee. All officers shall serve for such terms and under such conditions as may be determined by the Management Committee. Any officer may be removed by the affirmative action of a majority of the members of the Association at a special meeting called for that purpose. Successors to officers so removed shall be selected or appointed by the Management Committee.

## Section 2, Article IV:

2. Election of Officers. The Management Committee shall appoint and remove officers at such times as the Management Committee shall determine.

## Section 4, Article IV:

4. Chairman. A Chairman of the Management Committee shall be selected by the Management Committee and shall serve as Chairman of the Management Committee and Board of Trustees of the Lakeview Terrace Unit Owners Association. The Chairman shall preside over all meetings of the Management Committee/Board of Trustees and over all meetings of Association members. The Chairman shall also serve as President and in his capacity as President shall be the chief

executive officer of the Association. He shall have all of the powers and duties usually vested in the office of president of an association of real property owners and all of the general powers and duties vested in the office of president of a non-profit corporation incorporated under the laws of the State of Utah.

Section 5, Article IV:

5. Vice President. Any Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. He shall assist the President and exercise such powers and perform such duties as shall be prescribed by the Management Committee/Board of Trustees.

Section 9, Article IV: is deleted without substitution.

Section 1, Article VI:

1. Amendments. The By-laws may be amended by affirmative action of the owners of at least seven (7) of the condominium units at any regular or special meeting called for that purpose.

### III.

#### CERTIFICATION

The undersigned certify that this First Amendment to the Enabling Declaration and By-Laws of Lakeview Terrace Condominiums was duly authorized by the vote of the unit owners required by Section 25, Article III of the Enabling Declaration and Section 1, Article VI of the By-laws.

### IV.

#### LEGAL DESCRIPTION

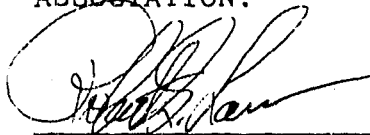
The real property to which this Amendment relates is described in the Record of Survey Map Lakeview Terrace, a Utah Condominium




Project recorded November 14, 1979 in Book 801 at Page 486 as Entry Number 55044 3, records of the Davis County Recorder.

IN WITNESS WHEREOF, the undersigned have duly executed this First Amendment on behalf of the Association this 1st day of October, 1987.

MANAGEMENT COMMITTEE and TRUSTEE MEMBERS OF THE GOVERNING BOARD OF LAKEVIEW TERRACE UNIT OWNERS ASSOCIATION:

  
ROBERT G. LARSON

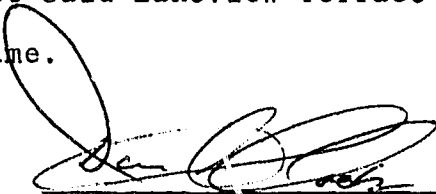
  
KENT N. WHEELWRIGHT

  
KENNETH KERR

STATE OF UTAH     )  
                  :    ss.  
County of Davis    )

On the 1st day of October, 1987, personally appeared before me ROBERT G. LARSON, KENT N. WHEELWRIGHT and KENNETH KERR, who being by me first duly sworn did depose and say that they are the Management Committee of the Lakeview Terrace Condominium Association and the three members of the Governing Board of Trustees of Lakeview Terrace Unit Owners Association and that the foregoing First Amendment was signed on behalf of all owners of Lakeview Terrace Condominium Units and on behalf of the Lakeview Terrace Unit Owners Association and said Robert G. Larson, Kent N. Wheelwright and Kenneth Kerr duly

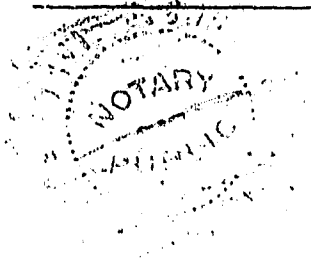
acknowledged to me that each duly executed the same as a member of the Management Committee and that said Lakeview Terrace Unit Owners Association duly executed the same.



NOTARY PUBLIC

My Commission Expires:  
1/14/90

Residing at Bountiful, Utah



ARTICLES OF INCORPORATION  
OF  
LAKEVIEW TERRACE UNIT OWNER'S ASSOCIATION  
(A Utah Non-profit Corporation)

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The undersigned, all of whom are residents of the State of Utah and are of full age, hereby voluntarily associate themselves for the purpose of forming a corporation not for profit under Title 16, Chapter 6, Utah Code Annotated (1953) Amended and certify as follows:

ARTICLE I

Name of Corporation

The name of the corporation shall be Lakeview Terrace Unit Owner's Association.

ARTICLE II

Duration

The duration of this corporation shall be perpetual.

ARTICLE III

Purpose

The business objectives and purposes for which the corporation are formed are as follows:

A. To constitute an association of owners of units in Lakeview Terrace Condominiums Phase Number I, a condominium project in the city of Bountiful.

B. To exercise all rights said owners or any of them may individually or collectively exercise in respect to promoting their common interests and objectives and pursuing or defending their legal rights pertaining to said condominium project.

C. To constitute an organization in which non-owners or interests in said units may hold membership upon terms and conditions established by the corporation relating to the objectives of the corporation.

D. To provide a legal entity through which the committee to be elected by owners of units in said project may operate under the enabling declaration of Lakeview Terrace Condominiums Phase No. I and the by-laws pertaining thereto including the making of assessments and providing common area and facility maintenance and other services with respect to common areas and facilities in said project.

#### ARTICLE IV

##### Powers

The powers of the corporation shall include all of the powers, rights and privileges which a corporation organized under the non-profit corporation laws of the State of Utah by law may now or hereafter have or exercise consistent with and in furtherance of the function of the corporation to further the interests of the

members of the corporation in respect to the Lakeview Terrace Condominium project and the common areas and facilities thereof.

The corporation shall have power to exercise all of the rights and privileges and shall have power to perform all of the duties and obligations of the committee to be selected by unit owners contemplated by the enabling declaration and by-laws as the same may be amended from time to time including, but not limited to, the power to fix, levy, collect and enforce lawful charges and assessments pursuant to the terms of the declaration and by-laws and to expend the same for proper purposes.

The corporation shall have power to own fee title to common areas and facilities and improvements; to purchase and maintain in force appropriate insurance; to contract for the management of the common areas and facilities; and to enforce covenants, restrictions and conditions affecting the interests of unit owners and to make and enforce rules and regulations for use of the common areas and facilities.

#### ARTICLE V

##### Membership

Every person or entity who or which becomes an owner of record or a purchaser of a fee simple interest in a condominium unit within the Lakeview Phase I condominium project may become a member of the corporation on such terms as the governing board may determine. The corporation shall be a membership corporation without shares of stock. When more than one person or entity holds

in joint ownership or as tenants in common any interest in any unit, all such persons or entities shall be deemed one member. Qualifications for membership in the association shall be established by recording a deed, contract or notice of purchaser's interest in the public records of the Davis County Recorder establishing a change of ownership of a unit and by presenting such evidence of ownership to the governing board. Membership in the corporation may, if the governing board so determines, be deemed appurtenant to the condominium or other residential property owned by the member. In such event, membership in the corporation shall terminate when such property is sold or conveyed. Members may not include persons or entities who hold only liens or security interests to secure the performance of obligations.

At the discretion of the governing board, membership in the corporation may be extended to record owners and purchasers of single family residences or lots within or in reasonable proximity to the Lakeview Terrace Condominium project. The governing board may, by resolution, determine the terms and conditions applicable to any such memberships.

## ARTICLE VI

Trustees

The affairs of this association shall be managed by a board consisting of three trustees. The trustees must be members of the association and owners of units in the Lakeview Terrace Condominium project. The number of trustees may be changed by amendment to these articles of incorporation. The names and addresses of the persons who are to act in the capacity of trustees until the selection of their successors in interest are:

<u>Name</u>	<u>Address</u>
Kenneth L. Kerr	1460 East Terrace Drive Bountiful, Utah 84010
Kent Wheelwright	1480 East Lakecrest Road Bountiful, Utah 84010
Robert G. Larson	1040 South Freemont Road Unit #1 Bountiful, Utah 84010

The above trustees shall act as a governing board until each's respective successor is elected at any annual meeting of the members. Originally one trustee shall act for one year, one for two years and one for three years as said trustees may mutually determine. Thereafter, each trustee's term shall be for three years. Any vacancies occurring shall be filled by the remaining two trustees.

## ARTICLE VII

Officers

The board of trustees may, but shall not be required, to appoint officers. Officers, if appointed, shall include a president,

one or more vice presidents, if deemed appropriate, a secretary and a treasurer and any other officers or committees that the governing board determines should be appointed to act in the interests of the corporation. Officers shall have such duties as may be determined by the governing board or as may be prescribed in any by-laws the governing board may adopt. All officers shall serve at the pleasure of the governing board.

#### ARTICLE VIII

##### By-Laws

The corporation may adopt by-laws. Any by-laws initially adopted by the governing board may be amended at any annual meeting of members or at any special meeting of members specially called for such purpose.

#### ARTICLE IX

##### Amendment

Amendment of these articles of incorporation shall require the assent of seventy-five percent (75%) of the members.

#### ARTICLE X

##### Voting Rights of Members

Each member owning a unit shall have one vote. In the event a unit is owned by more than one person, the voting right pertaining to that unit shall be exercised by whichever co-owner such multiple owners may select.

The basis for any voting rights of non-unit owner members shall be as determined by the governing board.



## ARTICLE XI

Conveyances and Encumbrances

Property which is owned by the corporation may conveyed or encumbered only by authority of the governing board. Conveyances and encumbrances with respect to corporate property shall be executed by a majority of the governing board or may be executed by the president or by a vice-president and by the secretary or treasurer of the corporation or by any other persons to whom such authority may be delegated by the governing board.

## ARTICLE XII

Dissolution

In the event of dissolution of the corporation, either voluntarily or by the members thereof or by the operation of law, the assets of the corporation shall be deemed to be owned by the members in common and in proportion to each members ownership of common areas and facilities pertaining to the Lakeview Terrace Condominiums.

## ARTICLE XIII

Office Address

The principal office of the corporation is located at 1460 East Terrace Drive, Bountiful, Utah 84010.

Registered Agent

The name and address of the initial registered agent for the corporation is Kenneth L. Kerr, 1460 East Terrace Drive, Bountiful, Utah 84010.

## ARTICLE XIV

Indemnification -- Attorney's Fees

Section I. Entitlement: Each trustee, officer and member of the corporation shall be entitled to indemnification with respect to all expenses, both direct and indirect, including attorney's fees actually incurred with respect to all suits and proceedings, whether civil, criminal, administrative or investigative, threatened or filed against such person by reason of claimed action or non-action on his part in his capacity as a trustee, officer or member of the corporation, except with respect to which he or she is ultimately adjudged liable for willfull misconduct or bad faith in the performance or non-performance of his or her duties to the corporation.

Section II. Implementation: The corporation shall pay all expenses including court costs and reasonable attorney's fees, witness fees, judgments, fines and amounts paid in settlement of suits and proceedings as such expenses are incurred by trustees, officers and members of the corporation. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo condendre or its equivalent shall not of itself create any presumption of willfull misconduct or bad faith. If the judgment or settlement or conviction includes a specific finding of willfull misconduct or bad faith, the persons whose costs were theretofore paid shall immediately reimburse the corporation all such expenses and costs and attorney's fees paid by the corporation on such persons behalf respecting the defense of such claim.

The corporation may, but shall not be required, to obtain an undertaking by or on behalf of the person against whom suit is filed prior to paying defense costs which undertaking will guarantee repayment of all such costs should it ultimately be determined that the trustee, officer or member was guilty of willfull misconduct or bad faith.

Section III. Additional Rights of Indemnification: The foregoing rights of indemnification shall not be exclusive. Each trustee, officer and member of the corporation shall also be entitled to indemnification under the circumstances and pursuant to the terms respecting indemnification set forth in Section 16-6-22(14) of the non-profit corporation code of the State of Utah.

#### ARTICLE XV

##### Incorporators

The names and addresses of the incorporators are:

<u>Name</u>	<u>Address</u>
Kenneth L. Kerr	1460 East Terrace Drive Bountiful, Utah 84010
Kent Wheelwright	1480 East Lakecrest Road Bountiful, Utah 84010
Robert G. Larson	1040 South Freemont Road Unit #1 Bountiful, Utah 84010

IN WITNESS WHEREOF, the undersigned incorporators herein-  
above named have hereunto set our hands this 12<sup>th</sup> day of SEPTEMBER  
\_\_\_\_\_, 1986.

Kenneth L. Kerr  
KENNETH L. KERR

Kent Wheelwright  
KENT WHEELWRIGHT

Robert G. Larson  
ROBERT G. LARSON

IN WITNESS WHEREOF, the registered agent above named has  
duly signed the above and foregoing articles or incorporation this  
18<sup>th</sup> day of SEPTEMBER, 1986.

Kenneth L. Kerr  
KENNETH L. KERR

STATE OF UTAH     )  
                          :    ss.  
County of Davis    )

On the 18<sup>th</sup> day of SEPTEMBER, 1986, personally appeared  
before me Kenneth L. Kerr, Kent Wheelwright and Robert G. Larson, who,  
being by me first duly sworn, did declare that they signed the  
foregoing document as incorporators, and in the case of Kenneth L.  
Kerr, as registered agent, for the uses and purposes therein mentioned.

In Witness Whereof, I have set my hand and seal this  
18<sup>th</sup> day of SEPTEMBER, 1986.

[Signature]  
NOTARY PUBLIC  
Residing at Bountiful, Utah

My Commission Expires:

January 14, 1990



CERTIFICATE OF INCORPORATION

OF

LAKEVIEW TERRACE UNIT OWNER'S ASSOCIATION

THE UTAH DIVISION OF CORPORATIONS AND COMMERCIAL CODE, HEREBY CERTIFIES THAT DUPLICATE COPIES OF ARTICLES OF INCORPORATION FOR THE INCORPORATION OF

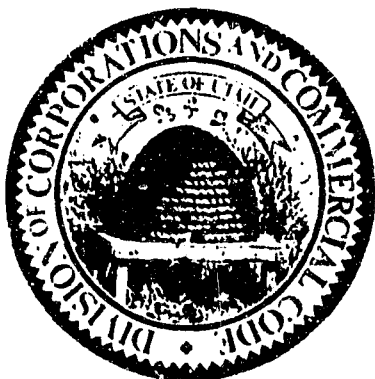
LAKEVIEW TERRACE UNIT OWNER'S ASSOCIATION

DULY SIGNED AND VERIFIED PURSUANT TO THE PROVISIONS OF THE UTAH NON-PROFIT CORPORATION AND COOPERATIVE ASSOCIATION ACT, HAVE BEEN RECEIVED IN THIS OFFICE AND ARE FOUND TO CONFORM TO LAW.

ACCORDINGLY, THE DIVISION OF CORPORATIONS AND COMMERCIAL CODE, HEREBY ISSUES THIS CERTIFICATE OF INCORPORATION OF

LAKEVIEW TERRACE UNIT OWNER'S ASSOCIATION

AND ATTACHES HERETO A DUPLICATE COPY OF THE ARTICLES OF INCORPORATION. 122543.



Dated this 26TH day  
of SEPTEMBER, 19 86

DIRECTOR, DIVISION OF CORPORATIONS AND  
COMMERCIAL CODE