

2257254

ENABLING DECLARATION

FOR

"CAPSTONE" CONDOMINIUM PROJECT

PHASE NO. 1

SECTION ONE

THIS DECLARATION is made and executed this 17th day of June, 1970 by CORPORATION NINE and TRIANGLE CONSTRUCTION COMPANY, INC., a Joint Venture, hereinafter termed "DECLARANT" pursuant to the provisions of the Utah Condominium Ownership Act.

RECITALS

WHEREAS, Declarant is the owner of a parcel of land together with easements, privileges and appurtenances thereunto belonging, situate in Salt Lake County, State of Utah, and hereinafter more particularly described, and

WHEREAS, Declarant has constructed or is in the process of constructing certain multiple buildings and certain other improvements upon the aforesaid premises in accordance with the plans and drawings set forth in the record of survey map filed herewith dated the 11th day of June, 1970, consisting of six (6) sheets, prepared and certified to by Robert B. Jones, a duly Registered Utah Land Surveyor, and

WHEREAS, Declarant desires by filing this Enabling Declaration and the aforesaid record of survey map, to submit the said property and the multiple buildings and other improvements being constructed thereon, together with all appurtenances thereto to the provisions of the Utah Condominium Ownership Act as a condominium project to be known as "Capstone" Condominium Project - Phase No. 1, and

WHEREAS, Declarant desires and intends to sell the fee title to the individual units contained in said condominium project, together with the exclusive use of the garage and patio applicable to each building unit and the undivided ownership interests in the common and the limited common areas and facilities appurtenant to each of said units to various purchasers, subject to the covenants, restrictions and limitations herein reserved to be kept and performed.

NOW, THEREFORE, for such purposes, Declarant hereby makes the following Declaration:

I. DEFINITIONS

1. The term "the Act" shall mean and refer to the Utah Condominium Ownership Act as the same may be amended from time to time.

VICTOR G. SAGERS  
ATTORNEY AT LAW  
SUITE E  
7321 SOUTH STATE STREET  
MIDVALE, UTAH 84047

Recorded NOV 5 - 1970 at 1:44 p.m.  
Request of Victor G. Sagers  
Fee Paid HAZEL TAGGART CHASE  
Recorder, Salt Lake County, Utah  
\$ 22.00 By [Signature] Deputy  
Ref. 7321 So. State St.  
Midvale, Utah 84047

BOOK 2914 PAGE 182

2. The term "the condominium project" shall mean and refer to the hereinafter described tract of land, together with all improvements and appurtenances located thereon or belonging thereto.

3. The term "record of survey map" shall mean and refer to that certain Record of Survey Map filed with this Declaration dated the 11th day of June, 1970, consisting of six (6) sheets, prepared by Robert B. Jones, a duly Registered Utah Land Surveyor.

4. The term "common areas and facilities" shall mean and refer to:

(1) The hereinafter described land on which the buildings are located.

(2) Those common areas and facilities specifically set forth and designated as such in the Record of Survey Map.

(3) All foundations, perimeter walls, roofs and entrances and exits of the buildings.

(4) The yards and gardens.

(5) All installations for the furnishing of central services, such as yard sprinkler systems, water services to buildings, roads, and walkways, swimming pools, etc.

(6) All other parts of the project necessary or convenient to its existence, maintenance and safety or normally in common use, including roadways.

(7) That part of the condominium project, not specifically included within the respective unit or limited common areas and facilities as hereinafter defined.

5. The term "limited common areas and facilities" shall mean and refer to certain open parking spaces as indicated on the record of survey map.

6. The term "management committee" shall mean and refer to the management committee of "Capstone" which is charged with and has the responsibility and authority to make and to enforce all of the reasonable rules and regulations covering the operation and maintenance of the condominium project.

7. The term "Unit" shall mean and refer to one of the individual units contained within the Condominium Project comprising one of the respective parts of the Condominium Project which is designated as such on the Record of Survey Map and which is intended to be independently owned, encumbered and/or conveyed, including the walls and partitions which are wholly contained within a designated unit and the inner decorated and/or finished surfaces of the perimeter walls, floors and ceilings. The paint or other finishing on the inside surfaces of perimeter walls (the exterior walls of the building), shall be deemed to be a part of the pertinent Unit, but all other portions of said perimeter walls shall be deemed to be Common Areas and Facilities. Partition walls, i.e., walls common to two Units, shall be deemed to be part of the Units they separate, and each Unit shall be deemed to include as part thereof the entire area within

and extending to the center of such partition walls. Should a Unit Owner own two or more adjoining Units, such Unit Owner shall be deemed to own, (i) the entirety of the partition wall between the Units which he owns, and (ii) all of the pipes, wires, conduits, or other utility lines within such Units, if he or his predecessor in interest originally paid for the cost thereof. The term "Unit" shall not, however, be deemed to include the undecorated and/or unfinished surfaces of the perimeter walls, floors and ceilings surrounding such Unit, except as shown otherwise on the Record of Survey Map, nor shall it be deemed to include the patio or garage, nor shall it include the pipes, wires, conduits or other public utility lines running through or under such Unit which are utilized for or serve more than one Unit.

8. The term "unit number" shall mean and refer to the number, letter or combination thereof designating the unit and the attached or designated garage and attached patio as designated in the record of survey map.

9. The term "unit owner" shall mean and refer to the legal owner of a unit as herein defined and the owner of an undivided interest in the common and limited common areas and facilities.

10. The term "exclusive use" shall mean and refer to the use of the attached or designated garage and attached or designated patio by the unit owner of the same number as the attached or designated garage or patio.

11. The term "majority" or "majority of the unit owners" shall mean and refer to the owners of more than sixty per cent in the aggregate in interest of the undivided ownership of the common and limited common areas and facilities.

12. The term "common expenses" shall mean and refer to all sums lawfully assessed by the management committee against the unit owners in accordance with the provisions of the Act, this Declaration, the Bylaws of the Management Committee (copy of which Bylaws is attached hereto marked Exhibit "B" and by reference made a part hereof), the management agreement for operation of the condominium project and such rules and regulations pertaining to the condominium project as the management committee may from time to time make and adopt.

13. The term "profits" shall mean and refer to the balance of all income, rents, profits and revenues received by the management committee from or in connection with the management and operation of the condominium project which may remain after the deduction of the common expenses.

## II. SUBMISSION

Declarant hereby submits to the provisions of the Act as a condominium project to be known as "Capstone" Condominium Project - Phase No. 1, the following described tract of land situate in Salt Lake County, State of Utah, to-wit:

### DESCRIPTION

Beginning at a point North 89°53'40" West along the Section Line 1008.90 feet from the Southeast Corner of Section 28, Township One South, Range One East, Salt Lake Base and Meridian, and

running thence North 89°53'40" West along said Section Line 232.01 feet to the East line of 1850 East Street; thence North 0°54'10" West along said East line 330.30 feet; thence South 89°53'40" East 223.82 feet; thence South 0°06'20" West 81.00 feet; thence North 89°53'40" West 11.00 feet; thence South 0°06'20" West 185.25 feet; thence South 89°53'40" East 25.00 feet; thence South 0°06'20" West 64.00 feet to the point of beginning.

SUBJECT TO any and all easements and rights of way for water, sewer, power, telephone and other utilities and any and all easements and rights of way shown on the survey plat of said "Capstone" Condominium Project - Phase No. 1 consisting of six (6) sheets, and any and all easements of record, visible on the land or enforceable in law and equity.

### III. COVENANTS, CONDITIONS AND RESTRICTIONS

This Declaration and submission are made upon and under the following covenants, conditions and restrictions:

1. The buildings and improvements of the "Capstone" Condominium Project are located and to be located upon the premises hereinabove described.
2. The condominium project is intended and restricted to use for individual housing purposes.
3. A description of the buildings showing the character of construction, the number of stories and basements, the number of units, garages, and patios and their identity, the approximate areas and immediate common access areas are set forth in and upon the record of survey map which is being recorded with this Declaration and to which reference is hereby made for all of such information.
4. The description of common and limited common areas and facilities and exclusive use areas are identified in the definition of terms in this Declaration hereinabove set forth. The units to which the use of the limited common areas is reserved are shown either upon Exhibit "A" attached hereto and by this reference made a part hereof, or upon the record of survey map, or both.
5. The percentage of undivided interest ownership in the common and limited common areas and facilities appurtenant to each unit and its owner for all purposes including voting, is more particularly shown upon said Exhibit "A".
6. This Declaration and the covenants, restrictions, limitations, conditions and uses herein provided for shall constitute covenants to run with the land hereby submitted to the condominium project and shall be binding upon the Declarant and its successors and assigns and upon all subsequent owners or users of all or any part of the condominium project and upon their grantees, successors, heirs, executors, administrators, devisees and assigns.
7. The name of the person to receive service of any process which may be authorized by law or under the provisions of this Declaration or under the provisions of the Act is John W. New, who resides at 2865 Floribunda Drive, in Salt Lake City, Salt Lake County, State of Utah; provided, however, that the Management Committee shall have the right to appoint a successor or substitute

process agent. Such successor or substitute process agent shall be designated and appointed by duly executed instrument filed in the Office of the County Recorder of Salt Lake County, State of Utah, for attachment to this Declaration.

8. The condominium project, including the common and limited common areas and exclusive use areas and facilities appurtenant thereto, shall be managed, operated and maintained by a Management Committee as agent of the unit owners in accordance with the terms, conditions and provisions of:

- (1) The Act;
- (2) This Declaration;
- (3) The Bylaws of the Management Committee attached hereto as Exhibit "B", and any amendments thereto;
- (4) Such rules and regulations pertaining to the condominium project as the Management Committee may from time to time adopt and all agreements and determinations lawfully made by the Management Committee and respecting the condominium project not in contravention of the Act, this Declaration and the Bylaws.

9. In the event of the destruction or damage of any building in the condominium project, the following procedure shall apply: (i) If loss arising from such destruction or damage to any unit does not exceed the sum of \$1,000.00, the Management Committee shall be responsible for repairing, rebuilding, and/or restoring the property to the condition it was in immediately prior to such destruction or damage, and the Management Committee shall in this connection be entitled to use for such purpose the proceeds of any insurance policies which it may have had in force on the said building as of the date of such destruction or damage. (ii) In the event that such destruction or damage to any unit exceeds the sum of \$1,000.00, but is less than 75 per cent of the value of the property destroyed or damaged, the proceeds of any insurance policies shall be paid as trustee to some bank or trust company in Salt Lake City agreeable to all mortgagees of the premises and the Management Committee, and such proceeds shall be employed in repairing, rebuilding, and/or restoring the property to the condition it was in immediately prior to such destruction or damage under a disbursement schedule and pursuant to appropriate agreement between such mortgagees and the Management Committee. (iii) In the event that such destruction or damage amounts to 75 per cent or more of the value of the property destroyed or damaged, the unit owners shall, at a meeting duly and regularly called by the Management Committee for that purpose, determine whether or not such property shall be rebuilt, repaired, or disposed of. Such determination, however, must be approved by all mortgagees of the premises or in the event any mortgagee refuses to approve such rebuilding or repair the mortgage held by such mortgagee shall either be purchased or discharged by payment in full. The determination under this paragraph of the extent of any damage to the project shall be made by a group of three (3) appraisers who shall be selected by the Management Committee for that purpose. In the event all of such appraisers cannot agree on the extent of the damage or destruction to the project, the decision of any two (2) with respect thereto shall be conclusive unless unit owners representing the ownership of not less than 75 per cent of the units agree to the withdrawal of the condominium project from the provisions of the Act and to its subsequent disposal. If the unit owners so determine that the premises shall be repaired, rebuilt, or restored to the same condition that they were in immediately prior to such destruction or damage, the procedure outlined in (ii) above with respect to the handling of insurance proceeds shall apply and be employed. In the event the cost of such repair, rebuilding, or restoration shall exceed the amount realized by the Management Committee from the proceeds of any insurance policy or policies as above provided, all of the unit owners shall contribute to such additional costs in relation to their undivided interests in the

common and limited common areas and facilities. In the event that 75 per cent or more of the unit owners agree to the withdrawal of the condominium project from the provisions of the Act and to its subsequent disposal, the proceeds of insurance and the proceeds arising from such disposal shall be paid to the mortgagees, if any, of the premises to the extent of the amount of any indebtedness, and overplus of such proceeds shall be paid to the Management Committee for distribution to the unit owners as their interests may appear.

10. Except as herein otherwise provided, the vote of more than sixty-five per cent (65%) in the aggregate in interest of the undivided ownership of the common and limited common areas and facilities shall be required to amend this Declaration and/or the record of survey map, which approval and consent shall be by duly executed and recorded instruments; provided, however, that until seventy per cent (70%) in number of Units in the condominium project shall have been sold by the Declarant, that Joint Venture hereby reserves and is hereby vested with the right to amend this Declaration and/or the Record of Survey Map, consistent always with the provisions of the Act.

11. As more fully provided in Section 2 of Article XIX of the Bylaws, the Management Committee shall insure that the condominium project is at all times covered by fire, liability and property insurance in the name or names of such person or persons and in such amounts as the Management Committee may from time to time determine to be proper, necessary and adequate. The individual unit owners shall carry insurance coverage of their own on such of their individual property as may be located in their Units and shall procure such further insurance coverage respecting their ownership, use or occupation of their individual units as they may deem necessary; provided, however, that no unit owner shall be entitled to exercise his right to maintain insurance coverage on a unit of which he is the owner in such a way as to decrease the amount which the Management Committee may realize under any insurance policy which the Management Committee may have in force on the project at any particular time.

12. Each Unit Owner, tenant or occupant of any unit shall comply with the provisions of the Act, this Declaration, the Bylaws of the Management Committee and the rules and regulations referred to above and all agreements and determinations lawfully made and/or entered into by the Management Committee, including any amendments thereto and any failure to comply with any of the provisions of said Act, Declaration, articles, Bylaws, rules, regulations, agreements and determinations, or any amendments thereto, shall be grounds for an action by the committee to recover any loss or damage resulting therefrom or for injunctive relief.

13. The Management Committee shall have and it is hereby given the authority to grant such utility easements over and across the Common Areas and Facilities as shall be determined by the Management Committee to be in the interest of the Unit Owners.

14. The provisions of this Declaration shall be in addition and supplemental to the provisions of the Act.

15. If any provision of this Declaration is determined to be invalid the remaining provisions thereof shall remain in full force and effect and shall not be affected thereby.

16. This Declaration shall take effect upon recording as provided by the Act.

Made and executed the day and year first above written.

CORPORATION NINE and TRIANGLE  
CONSTRUCTION COMPANY INC., a  
Joint Venture

By John W. New  
CORPORATION NINE

By John W. New  
President

TRIANGLE CONSTRUCTION COMPANY INC.

By Harvey G. Dalton  
President

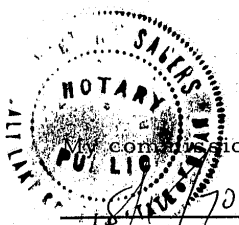
STATE OF UTAH )

:ss.

County of Salt Lake )

On the 17<sup>th</sup> day of June, 1970, personally appeared before me JOHN W. NEW, who being by me duly sworn did say that he is the President of CORPORATION NINE, and HARVEY G. DALTON, who being by me duly sworn did say that he is the President of TRIANGLE CONSTRUCTION COMPANY INC., and the above and foregoing instrument was signed in behalf of said corporations by authority of a resolution of their respective Board of Directors and the said JOHN W. NEW and HARVEY G. DALTON acknowledged to me that said corporations executed the same; and JOHN W. NEW and HARVEY G. DALTON did acknowledge to me that they signed the foregoing instrument on behalf of the Joint Venture.

Arthur D. Payne  
NOTARY PUBLIC



My commission expires:

Residing at:

Sandy W. New

EXHIBIT "A"

TO

"CAPSTONE" CONDOMINIUM PROJECT

PHASE NO. 1

The project will have five (5) buildings with two (2) units each. Each unit will own the percentage of the common areas and facilities as hereinbelow set forth with the exception that all installations for the furnishing of central services, such as yard sprinkler systems, water services to buildings, roads, walkways, swimming pools, etc., essential to the furnishing of such services to subsequent Phases No. 2, 3, and 4 shall be shared pro rata with all such units of said phases to be hereinafter erected.

<u>BUILDING</u>	<u>UNIT NO.</u>	<u>PER CENT OWNERSHIP IN COMMON AREA SUBJECT TO USAGE AND OWNERSHIP OF SUBSEQUENT PHASES (ALSO DETERMINATIVE OF VOTING RIGHTS AND PRO RATA SHARE OF OWNERS EXPENSES)</u>
1	1	1/10
1	2	1/10
2	3	1/10
2	4	1/10
3	5	1/10
3	6	1/10
4	7	1/10
4	8	1/10
5	9	1/10
5	10	1/10



BYLAWS OF MANAGEMENT COMMITTEE

OF

"CAPSTONE" CONDOMINIUM PROJECT

PHASE NO. 1

EXHIBIT "B"

These Bylaws are adopted for the government of the "Capstone" Condominium Project, pursuant to the provisions of the Utah Condominium Ownership Act and the Declaration of CORPORATION NINE and TRIANGLE CONSTRUCTION COMPANY INC., a Joint Venture, executed pursuant to the provisions of such Act.

ARTICLE I.

DEFINITION OF TERMS

The term "committee" means the management committee of "Capstone" Condominium Project.

The term "owner or owners" means the unit owner or owners of units in "Capstone" Condominium Project.

The term "project" means the "Capstone" Condominium Project.

The term "Act" means the Utah Condominium Ownership Act.

The term "declaration" refers to the instrument to which these Bylaws are attached as Exhibit "B".

ARTICLE II.

ESTABLISHMENT OF MANAGEMENT COMMITTEE

The committee is established as an agent of the owners and the acts and duties of the committee performed in accordance with these Bylaws are performed as the agents of the owners.

ARTICLE III.

NUMBER OF COMMITTEE AND SELECTION OF MEMBERS

The committee shall be composed of three (3) members. The members of the committee shall be elected annually at a meeting of the owners called for that purpose. At the first such meeting of the owners held on the 30th day of June, 1970, three (3) committee members shall be elected for terms of office

VICTOR G. SAGERS

ATTORNEY AT LAW

SUITE E

7321 SOUTH STATE STREET

MIDVALE, UTAH 84047

as follows:

- One for 1 year
- One for 2 years
- One for 3 years

At each annual meeting of the owners thereafter each committee member shall be elected for a term of three years. Each owner shall be entitled to the number of votes equal to his or its percentage of undivided interest ownership in the common or limited common areas and facilities of the project; provided, however, that during the three year period commencing July 1, 1970, Corporation Nine and Triangle Construction Company Inc., a Joint Venture, shall be entitled to name two (2) of such committee members. Until the first annual meeting of the owners, the members of the committee, although less than three (3), shall be the following named persons holding the following offices in said committee, to-wit:

Harvey G. Dalton	President
John W. New	Secretary-Treasurer

#### ARTICLE IV.

##### MEETING OF OWNERS

Section 1: Annual Meeting. The annual meeting of the owners shall be held at seven o'clock, P. M., on the second Monday in July, 1971 and on the second Monday in July of each year thereafter at the office of the project or at such other place as shall be stated in the notice of the meeting; provided that whenever such date falls on a legal holiday the meeting shall be held on the next succeeding business day. At such meeting the owners shall elect committee members for one-year terms to serve until their successors shall be elected and shall qualify. Only owners shall be elected members of the committee; provided, however, that officers or agents of corporate owners or of the Declarants may also be elected or named members of the committee and as otherwise provided herein.

Section 2: Special Meetings. Special meetings of the owners shall be called by the President, by a majority of the committee members, or by any number of owners holding at least one-third of the undivided ownership interest in the project.

Section 3: Calls and Notices. The calls and notices of all meetings of the owners shall conform to the provisions of these Bylaws.

Section 4: Presiding Officer. The President, and in his absence a Vice President, of the committee shall preside at all such meetings.

Section 5: Quorum. At any meeting of the owners, the holders of a majority of the undivided ownership interest in the project shall constitute a quorum for all purposes; provided, however, except as otherwise provided by law or the declaration, that no capital expenditure for the project of more than \$2,000.00 shall be authorized except upon a vote of the holders of more than 65% of the undivided ownership interest in the project.

ARTICLE V.

GOVERNING COMMITTEE

Section 1: Responsibilities. The business and property of the owners shall be managed by the committee. The committee may, however, engage the services of a manager and enter into such management agreement or agreements as it may deem desirable.

Section 2: Vacancies. In case of any vacancy in the committee the remaining members may elect a successor member to hold office until the next meeting of the owners.

Section 3: Regular Meetings. A regular annual meeting of the committee shall be held immediately after the adjournment of each annual meeting of the owners at the place at which such owners' meeting was held. Regular meetings other than the annual meeting shall be held at regular intervals at such place and at such time as the committee may from time to time by resolution provide.

Section 4: Special Meetings. Special meetings of the committee shall be held whenever called by the President, the Vice President, or a majority of the committee. By unanimous consent of the committee members, special meetings may be held without call or notice at any time or place. Notice of all calls and meetings of the committee shall be as provided in these Bylaws.

Section 5: Quorum. A quorum for the transaction of business at any meeting of the committee shall consist of a majority of the members then in office.

Section 6: Compensation. Committee members as such shall not receive any stated salary for their services, but by resolution of the unit owners a fixed sum and expenses of attendance, if any, may be allowed for attendance at each regular or special meeting of the committee, provided that nothing herein contained shall be construed to preclude any committee member from serving the owners in any other capacity and receiving compensation therefor.

Section 7: Acceptability of Tenants. The committee shall have prerogative to either accept and approve or reject and disapprove all occupants or proposed occupants of the project. The owner or owners of each unit in the project shall notify the committee in writing of the name of any proposed occupants of a unit at least ten days prior to the proposed date of occupancy. The committee shall within a reasonable period of time after the receipt by it of such notice either accept and approve or reject and disapprove said proposed occupants. Failure on the part of the committee to give notice to said owner or owners of the rejection and disapproval of a proposed occupant within a reasonable period of time shall operate as a waiver of the committee's right to reject and disapprove such proposed occupant. In the event the committee gives notice as above provided of the rejection and disapproval of the proposed occupant and gives as its reason therefor that said proposed occupant is not of good moral character, the rejection and disapproval shall be final. However, in the event the committee rejects and disapproves a proposed occupant and gives no reason

therefor, the owner or owners concerned shall have the right to have such rejection and disapproval reviewed by the remaining owners at a special meeting of the owners which shall be called at the request of such owners by the President or Vice President of the committee pursuant to the provisions of these Bylaws. Upon receiving such request, the President or Vice President, as the case may be, shall call a special meeting of the owners and shall give such notice of said meeting as shall be required to insure that the same shall be held within five days after the receipt of such request. Unless owners representing fifty-one per cent (51%) or more of the undivided ownership interest in the project's common and limited common areas and facilities vote at said meeting in favor of reversing the committee's rejection and disapproval, the committee's decision shall be and remain final. No occupant or proposed occupant may be rejected and disapproved by the committee or the owners upon any ground or basis prohibited by law. The provisions of this Section 7 shall be inapplicable as to limitation on occupancy to any mortgagee which has acquired title to any unit or units, and this exemption cannot be removed by amendment to the Bylaws without the concurrence of all mortgagees who then hold mortgages on the condominium units.

Section 8: Transfer of Lease of Units. The owner, or owners, of any unit in the project who desires to convey said unit, or to enter into any agreement for the occupancy of said unit by another person or persons, shall give the committee ten (10) days' advance written notice thereof, which notice shall state the name and address of the proposed purchaser or occupant, as the case may be, and the terms and conditions upon which said proposed purchaser or occupant agrees to purchase or occupy said unit. The committee on behalf of the remaining owners shall have the right, exercisable at any time within five days after its receipt of such notice, to purchase or enter into an agreement for the occupancy of said unit upon the same terms and conditions as those specified in the notice; provided, however, that in the event the committee enters upon an agreement under this Section 8 for the occupancy of any unit, it shall have the right to sublet said unit to any person or persons reasonably suitable to both the committee and the owner of said unit. In the event the committee determines that it desires to purchase, or enter into an agreement respecting the occupancy of, a unit as above provided, but believes that the price or rental specified in the notice is unreasonable, the committee shall give the owner or owners of said unit written notice thereof within five (5) days after its receipt of notice of the proposed sale or occupancy agreement. The notice thus given by the committee shall state that the committee on behalf of the remaining owners has elected or thereby elects to purchase said unit, or enter into an agreement for the occupancy of the same, and shall state further that the committee believes the price or rental specified in the notice given to it is unreasonable. The committee shall thereafter be obligated to purchase said unit, or enter into an agreement for the occupancy of same, at a price or rental to be determined by a group of three (3) appraisers to be selected as follows: The committee shall select one appraiser, the unit owner or owners concerned shall select one appraiser, and the two appraisers thus selected shall select the third appraiser. In the event all three appraisers cannot agree on a price or rental to be paid, the decision of any two of the three shall be binding. The committee and the unit owner or owners concerned shall make every reasonable effort to select their respective appraisers and to take any other action on their part to be taken so as to

BOOK 2914 PAGE 193

secure a decision respecting the price or rental which is to be paid at the earliest possible date. The provisions of this Section 8 shall be inapplicable as to limitation on occupancy and/or sale to any mortgagee which has acquired title to any unit or units, and this exemption cannot be removed by amendment to the Bylaws without the concurrence of all mortgagees who then hold mortgages on the condominium units.

## ARTICLE VI.

### OFFICERS

Section 1: Selection of Officers. The committee shall perform its functions through its officers, who shall be appointed by the committee. Such appointment shall regularly take place at the first meeting of the committee immediately following the annual meeting of the owners; provided, however, that such appointment may be made at any other meeting of the committee.

Section 2: Additional Officers and Agents. The committee may appoint such other officers and agents in addition to those hereinbelow expressly named as they shall deem necessary who shall have such authority to perform such duties as may be prescribed from time to time by the committee.

Section 3. Removal. All officers and agents of the committee shall be subject to removal with or without cause at any time by the affirmative vote of the majority of the then members of the committee.

## ARTICLE VII.

### PRESIDENT

The President shall be the chief executive of the committee and shall exercise general supervision over the property and affairs of the project. He shall sign on behalf of the committee all contracts and shall do and perform all acts and things which the committee may require of him. He shall serve without compensation.

## ARTICLE VIII.

### VICE PRESIDENT

In the event of the President's absence or inability to act, the Vice President shall have the powers of the President.

## ARTICLE IX.

### SECRETARY

The Secretary shall keep the minutes of the committee and such records as these Bylaws or any resolution of the committee may require him to keep. He shall perform such other services as the committee may impose upon him and shall receive such compensation as the committee may fix or approve.

ARTICLE X.

TREASURER

The Treasurer shall have the custody and control of the funds of the committee, subject to the action of the committee and shall, when requested by the President so to do, report the state of the finances of the committee at each annual meeting of the owners and at any meeting of the committee. He shall perform such other services as the committee may require of him and shall receive such compensation as the committee may affix or approve. He shall furnish the committee with a bond conditioned upon the faithful performance of his duties in such amount and with such sureties as the committee shall require. The offices of Secretary and Treasurer may be held by the same person.

ARTICLE XI.

CALLS AND NOTICES OF MEETINGS

Section 1: Annual Meeting. At least ten (10) days before the date of the annual meeting of the owners the Secretary shall cause a written notice setting forth the time, place and general purpose of the meeting to be delivered personally or deposited in the mail with postage prepaid, addressed to each owner of record at his last known post office address.

Section 2: Special Meetings. Notice of special meetings of the owners shall be given to each owner in writing at least forty-eight (48) hours before the time fixed for the meeting and shall be delivered personally or mailed postage prepaid to each owner at his last known post office address. Whenever all of the owners shall meet in person or by proxy, such meeting shall be valid for all purposes. No call or notice of any meeting of owners shall be necessary if waiver of call and notice be signed by all of the owners.

Section 3: Special Committee Meetings. Notice of special meetings of the committee shall be given to each member orally or in writing at least twenty-four (24) hours before the time fixed for the meeting. No notice need be given of regular meetings of the committee. Whenever all members of the committee meet, such meetings shall be valid for all purposes. No call or notice of any meeting of the committee shall be necessary if waiver of call and notice be signed by all of the committee members.

ARTICLE XII.

ANNUAL STATEMENT

The committee shall present at each annual meeting of the owners, and when called for by a vote of the owners at any special meeting, a full, complete statement of the business and condition of the committee and the project.

ARTICLE XIII.

FISCAL YEAR

The fiscal year of the committee shall be on a calendar year basis unless otherwise fixed.

ARTICLE XIV.

BUILDING RULES

The committee shall have the power to adopt and establish by resolution such building, management and operational rules as the committee shall deem necessary for the maintenance, operation, management and control of the project and the committee may from time to time by resolution alter, amend and repeal such rules.

ARTICLE XV.

AMENDMENT OF BYLAWS

These Bylaws may be amended with the consent of the holder or holders of any mortgage or trust deed upon the condominium project and by the affirmative vote of the owners of more than 65 per cent in interest of the common and limited areas and facilities of the project at any regular or special meeting of the owners called and noticed for that purpose; provided, however, that no amendment of Article III hereof shall be effective during the three-year period commencing July 1, 1970, unless such amendment shall be approved in writing by Corporation Nine and Triangle Construction Company Inc.

ARTICLE XVI.

OPERATION AND MAINTENANCE OF CONDOMINIUM PROJECT

The committee as agent for the owners shall be responsible for the maintenance, control, operation and management of the project in accordance with the provisions of the Utah Condominium Ownership Act, the Declaration whereby the project is established and submitted to the provisions of the Act, these Bylaws, such management agreement as the committee may enter into and such building, management and operational rules and regulations as the committee may adopt from time to time as herein provided, and all agreements and determinations lawfully made and entered into by the committee. The committee shall in this connection provide for the proper and reasonable maintenance, control, operation and management of the project and of the common and limited common areas and facilities appurtenant thereto. The management committee shall provide each unit with water, general repair and maintenance as may be reasonably required for the proper and necessary care, maintenance and repair of all of said common and limited common areas. In addition, the committee will be responsible for the proper and reasonable painting and repairing of all fences, railings and outside building walls within the project. The committee

shall have no obligation or responsibility with respect to the care or maintenance of areas inside the individual units. Owners shall be responsible for the cleaning of their respective patios, glass walls, windows, doors and garages.

#### ARTICLE XVII.

##### PAYMENT OF EXPENSES AND DISTRIBUTION OF INCOME

Section 1: General Operating Reserve Fund. Upon the dates the respective units of the project are ready for occupancy the owner or purchaser of each such unit shall prepay to the committee the sum of Two Hundred Dollars (\$200.00) per unit. The amount so paid shall be used by the committee for the purpose of establishing a general operating reserve fund for use in connection with the management and operation of the project. The amount of such fund may be increased or decreased by the committee from time to time as the committee may deem advisable.

Section 2: Payment of Expenses. All costs and expenses incurred by the management committee as agent for the owners in connection with the maintenance, control, operation and management of the project shall be paid and discharged by the management committee or the project manager from the general operating reserve fund as the same shall become due and payable. Each owner shall in turn pay the project manager for his share of said costs and expenses on the basis of such owner's proportional interest in the project's common and limited common areas and facilities. Such payments by the owners to the project manager shall be paid monthly in advance and shall be payable on such day and in such amounts as the management committee shall determine; provided, however, that the total amount of all payments required to be paid by any owner to the project manager during any given year shall not exceed such owner's proportional part of the actual cost and expenses of the project during such year.

Section 3: Remedies for Non-Payment of Common Expense. Should any owner fail to pay his share of the common expenses at the time the same become due, the management committee shall be and is hereby authorized and empowered for and on behalf of the owners to enforce any right or remedy authorized by the Act, the Declaration, these Bylaws, the Management Agreement, or any other instrument respecting such pay, right or remedy, as provided by law.

#### ARTICLE XVIII.

##### ANNUAL BUDGET

On or before the 1st day of July, 1970, and on or before the first day of May of each year thereafter the committee shall prepare an operating budget setting forth an itemized statement of the anticipated receipts and disbursements for the coming year and taking into account the general condition of the project. Each such budget, together with a written statement from the committee outlining a plan of operation for the year in question and justifying in every important particular the estimates made, shall be submitted to the owners in final draft on or before June 1, 1971, and each year thereafter. Such budget, with any changes therein, shall



be adopted by the owners at each annual meeting. Said operating budget shall serve as a supporting document for the schedule of proposed monthly assessments for the annual period for which it is prepared. Said budget shall also constitute a major guideline under which the committee and the project manager shall operate during such annual period, and there shall be no substantial variances therefrom by the manager without the approval and consent of the committee, except in the case of emergencies.

## ARTICLE XIX.

### TAXES AND INSURANCE

Section 1: Taxes. It is acknowledged that under the Utah Condominium Ownership Act each of said units and each of said units percentage of undivided interest in the common and limited common areas and facilities of the project are subject to separate assessment and taxation by each assessing unit and special district for all types of taxes authorized by law and that as a result thereof no taxes will be assessed or payable against the project as such. Each owner will therefore pay and discharge any and all taxes which may be assessed against any said unit of which he is the owner, and against the percentage of undivided interest in the common and limited common areas and facilities of the project, and against any items of personal property located in or upon any unit of which he is the owner.

Section 2: Insurance. The committee shall secure and maintain the following insurance coverage on the project:

(a) A policy or policies of fire insurance as provided in paragraph 11, Section III of the Declaration, with extended coverage endorsement, for the full insurable replacement value of the units and common and limited areas of the condominium project or such other fire and casualty insurance as the committee shall determine to be necessary to provide substantially equal protection to the owners, and their mortgagees, as their respective interests may appear, which said policy or policies shall provide for a separate loss payable endorsement in favor of the mortgagee or mortgagees of each unit, if any.

(b) A policy or policies as provided in paragraph 11, Section III of the Declaration insuring the committee, the owners and the manager against any liability to the public or to the owners of units and of the common and limited common areas, and their invitees, or tenants, incident to the ownership and/or use of the condominium project; and including the personal liability exposure of the owners. Limits of liability under such insurance shall not be less than Two Hundred Thousand Dollars (\$200,000.00) for any one person injured, in any one accident, nor less than Five Hundred Thousand Dollars (\$500,000.00) for all persons injured, in any one accident, and shall not be less than One Hundred Thousand Dollars (\$100,000.00) for property damage each occurrence. Such limits and coverage shall be reviewed at least annually by the Committee and increased in its discretion. Said policy or policies shall be issued on a comprehensive liability basis and shall provide cross liability endorsement wherein the rights of named insureds under the policy or policies shall not be prejudiced as respects his, her or their action against another named insured.

The committee shall obtain and maintain at all times insurance of the type and kind and in at least the amounts provided hereinabove, and including insurance for such other risks, of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to other condominium projects similar in construction, design and use, which insurance shall be governed by the following provisions:

(a) All policies shall be secured with a company licensed to do business in the State of Utah and holding a rating of "AA" or better by Best's Insurance Reports;

(b) Authority to adjust losses under policies hereafter in force in the condominium project shall be vested in the committee or its authorized representative;

(c) In no event shall the insurance coverage obtained and maintained by the committee hereunder be brought into contribution with insurance purchased by individual owners or their mortgagees;

(d) Each owner may obtain additional insurance at his own expense, provided, however, that no owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the committee, in behalf of all of the owners, may realize under any insurance policy which the committee may have in force on the condominium project at any particular time;

(e) Any owner who obtains individual insurance policies covering any portion of the project other than personal property belonging to such owner shall be required to file a copy of such individual policy or policies with the committee within thirty (30) days after purchase of such insurance;

(f) The committee shall be required to make every effort to secure insurance policies that will provide:

(1) A waiver of subrogation by the insurer as to any claim against the committee, the manager, the owners and their respective servants, agents, and guests;

(2) That the master policy on the condominium project cannot be cancelled, invalidated or suspended on account of the conduct of any one or more individual owners;

(3) That the policy cannot be cancelled, invalidated or suspended on account of the conduct of any officer or employee of the committee or manager without a prior demand in writing that the committee or manager cure the defect;

(4) That any "no other insurance" clause in the master policy exclude individual owners' policies from consideration.

#### ARTICLE XX.

#### PROJECT MANAGER

The committee may employ a project manager for the project under a management agreement containing such terms and conditions as the committee

shall deem to be in the interest of the owners. Such project manager shall be responsible for managing the project for and on behalf of the owners in accordance with these Bylaws and said management agreement. It is acknowledged that a management agreement is presently being entered into with Corporation Nine for the management of the project for a two (2) year period commencing on the 1st day of July, 1970.

#### ARTICLE XXI.

##### RIGHT OF ENTRY

Section 1: By the Committee. The committee and its duly authorized agents shall have the right to enter any and all of said units in case of an emergency originating in or threatening such unit or any part of the project, whether the owner or occupant thereof is present at the time or not. The committee and its duly authorized agent shall also have the right to enter any and all of said units at all reasonable times as required for the purpose of making necessary repairs on the common areas and limited common areas and facilities of the project.

Section 2: By Committee and Management. The committee and/or the management and their duly authorized agents and representatives shall have the right to enter any of said units contained within the project for the purpose of performing emergency installations, alterations or repairs to the mechanical or electrical devices or installations located therein or thereon; provided, however, such emergency installations, alterations or repairs are necessary to prevent damage or threatened damage to other units in the project and provided further that the owner affected by such entry shall first be notified thereof if available and the time permits.

#### ARTICLE XXII.

##### REIMBURSEMENT FOR DAMAGES

Each owner shall promptly perform or cause to be performed all maintenance and repair work within any of said units owned by him which if omitted will adversely affect the building in which said unit is located in its entirety or any part of the project and shall be liable in damages for any failure on his part so to do. Each owner shall also reimburse the committee for the full value of any repairs or replacements to the common and limited common areas and facilities made necessary through the negligence or fault of such owner or such owner's tenants.

#### ARTICLE XXIII.

##### NUISANCES

No owner or occupant shall cause, permit or suffer any nuisance to be created or carried on in any unit of which he is the owner or occupant.

ARTICLE XXIV.

PARKING FACILITIES

Each owned unit will include a two-car garage. The driveways to these garages shall be part of the projects limited common area. The use of these driveways is for the exclusive use of the owners. Automobiles may be parked on the roadways in front of the owners units according to directions.

ARTICLE XXV

USE AND OCCUPANCY

Section 1: Obstruction of Common Areas and Facilities. No owner shall cause or allow nor permit any person over whom he has or may exercise supervision or control to cause or allow any exit, entrance, roadway, driveway, or sidewalk in or on the project to be obstructed or to be used for any purpose other than for ingress to or egress from said units of the project.

Section 2: Use of Units. No owner or occupant of any of said units shall without the prior written consent of the management committee occupy or use any of said units or permit any person over whom such owner or occupant has or may exercise supervision and control to occupy or use the same for any purpose other than a private dwelling or to permit or suffer anything to be done or kept in or on any of said units which would constitute a nuisance or violation of any law, ordinance or regulation which would increase the rate of fire insurance on the project or which might otherwise interfere with the rights of other owners or occupants of the project. No advertisement or illumination shall be inscribed or exposed on or at any window or outside wall of the project. The porch or patio pertaining to each unit is for the exclusive use of that owner except in cases of fire or other emergency. All others should protect this privacy by confining their usage to their own porch or patio.

Section 3: Maintenance of Units. Each owner or occupant of any of said units shall at such owner's or occupant's sole cost and expense maintain the interior of such unit and its equipment and appurtenance in good order, condition or repair and in a clean and sanitary condition and do all redecorating, painting, or varnishing which may at any time be necessary to maintain such unit in a clean and attractive condition. No such owner or occupant shall, however, without the prior written consent of the committee make or permit to be made any structural alteration, improvement or addition in or to any of said units which would adversely affect the construction, design, or appearance of the building in which said unit is situated or any other unit. No shade, awnings or window guards shall be used on the outside of any building contained within the project without the prior written approval of the committee. No radio or TV antenna or aerial shall be installed on the outside of any building contained within the project without the prior written consent of the committee.

Section 4: Pets. No bird or animal shall be kept or harbored in the project unless the same in each instance be expressly permitted by the committee in writing. In no event shall dogs or other pets be permitted in, on or about the project. The owner shall indemnify the management committee

and hold it harmless against any loss or liability of any kind or character whatsoever arising from or growing out of having any animal or pet in, on or about the project. The keeping of pets within the project shall be prohibited.

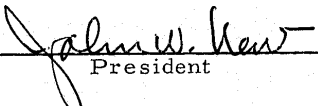
Section 5: No Waiver of Strict Performance. The failure on the part of the committee to insist in one or more instances upon a strict performance of any of the terms, covenants or conditions of the aforesaid Act, Declaration, record of survey map, management agreement, rules, regulations, agreements, determinations and these Bylaws or to exercise any right or option therein contained shall not constitute nor be construed as a waiver or relinquishment of any other right which the committee may have hereunder or which it may hereafter acquire.

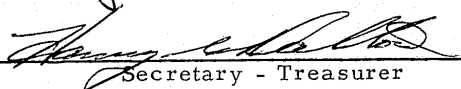
ARTICLE XXVI.

PARTIAL INVALIDITY

If any provision of these Bylaws is held invalid such determination shall not affect the remaining provisions hereof.

ADOPTED AND APPROVED THIS 17<sup>th</sup> day of June, 1970, by Management Committee.

  
\_\_\_\_\_  
President

  
\_\_\_\_\_  
Secretary - Treasurer