

Recorded AUG 31 1978 at 11:03 m. 1103 a
Request of UTAH TITLE & ABSTRACT COMPANY
222 WEST STATE L. BLDG.
SALT LAKE CITY, UTAH
\$ 104.50 by Patricia L. Brown Deputy
Patricia Brown
Ref. _____

3149643

DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF THE WESTHAMPTON PLANNED UNIT DEVELOPMENT

THIS DECLARATION made and executed on the 7th day
of AUGUST, 1978, by GREAT WEST DEVELOPMENT, INC., a
Utah Corporation, hereinafter referred to as "Declarant",

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in
Salt Lake County, State of Utah, which is more particularly
described as follows, to-wit:

Beginning at a point 7 feet South of the existing
South line of 3500 South Street S 89°56'19" W.
607.18 feet and S 0°02'42" E 47.0 feet from the
North Quarter Corner of Section 31, Township 1
South, Range 1 West, Salt Lake Base and Meridian,
running thence S 89°56'19" W 106.344 feet along
a line parallel to the existing South line of
3500 South Street; thence S 0°02'42" E. 628.0
feet; thence N 89°56'19" E 673.524 feet; to a
point 7 feet West of the West line of 4400 West
Street; thence N 0°02'42" W 325.0 feet; along a
line parallel to the West line of said 4400 West
street; thence S 89°56'19" W 567.18 feet; thence
N. 0°02'42" W 303.0 feet to the point of beginning.

NOW, THEREFORE, Declarant hereby declares that all of
the properties described above shall be held, sold and con-
veyed subject to the following easements, restrictions,
covenants, and conditions, which are for the purpose of
protecting the value and desirability of, and which shall run
with, the real property and be binding on all parties having
any right, title or interest in the described properties or
any part thereof, their heirs, successors and assigns, and
shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

Section 1. "Association" shall mean and refer to
Westhampton Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record
owner whether one or more persons or entities, of a fee simple

UT-46951

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title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean and refer to that part of the property which is not included within the lots, but shall include all roadways, walks, landscaped areas and all other improvements other than utility lines now or hereafter constructed or located thereon.

It is understood that the actual location of certain homes and other improvements constructed or to be constructed on the lots might inadvertently deviate slightly from the location indicated by the official plat of the properties. The above described common area shall therefore be subject to minor encroachments of such homes and other improvements which extend slightly beyond the boundaries of their respective lots but are in substantial compliance with the official plat. Each owner shall therefore be deemed to have an easement on the common area to the extent of any such minor encroachment from his lot.

Section 5. "Lot" shall mean and refer to any numbered plot of land shown upon any recorded subdivision map of the properties, the said numbered plots being separate from the common area, and containing carport, court yard area and structure.

Section 6. "Declarant" shall mean and refer to Great West Development, Inc., its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restriction.

Section 8. "Plat" shall mean and refer to the plat entitled "Westhampton, a Planned Unit Development," executed

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and acknowledged by Declarant, and filed for record in the office of the County Recorder of Salt Lake County, Utah, simultaneously with the recording of this Declaration.

Section 9. "Association" shall mean and refer to Westhampton Association, a Utah nonprofit corporation.

Section 10. "Member" shall mean and refer to every person who holds membership in the Association.

ARTICLE II

PROPERTY RIGHTS IN COMMON AREA

Section 1. Easement of Enjoyment. Each Member shall have a right and easement of use and enjoyment in and to the Common Areas. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom.

Section 2. Form for Conveyancing. Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering title to a Lot shall describe the interest or estate involved substantially as follows:

Lot _____ Westhampton Planned Unit Development, according to the official plat thereof, recorded in the office of the County Recorder of Salt Lake County.

Together with the right and easement of enjoyment along with other lot owners in and to the common areas of said Planned Unit Development as the same are established and identified on the recorded plat of the said subdivision, and a Class A Membership in Westhampton Association, a Nonprofit Association, subject nevertheless to the terms, conditions and provisions as set forth in the Declaration of Covenants, Conditions and Restrictions recorded _____ as Entry No.

In Book _____, at Page _____ of Official Records.

Notwithstanding whether or not the description employed in any such instrument is in the above-specified form, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot.

Section 3. Transfer of Title. Declarant agrees: That it shall, on or before six months from the date on which this Declaration is filed for record in the office of the

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County Recorder of Salt Lake County, Utah, convey to the Association title to the Common Area, free and clear of all liens (other than the lien of current general taxes and the lien of any assessments, charges, or taxes imposed by governmental or quasi-governmental authorities).

Section 4. Limitation on Easement. A Member's right and easement of use and enjoyment concerning the Common Areas shall be subject to the following:

(a) The right of the Association to enact reasonable rules and regulations governing use of the common area;

(b) The right of the Association to suspend the voting rights of an owner for any period during which any assessment against his lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations (it being understood that such suspension of rights shall not terminate the continuing obligation of such owner for past and future assessments against his lot);

(c) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded;

(d) The right of individual owners to the exclusive use of parking spaces as provided in this article.

Section 5. Delegation of Use. In accordance with the By-Laws or Regulations adopted by the Board of Directors of the Association, any owner may delegate his right of enjoyment to the Common Areas and facilities to members of his family, his tenants, or contract purchasers who reside on the property.

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ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Section 2. Voting Rights. The Association shall have the following-described two classes of voting membership:

Class A. Class A members shall be all owners with the exception of the Declarant. Class A members shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to four (4) votes for each Lot in which it holds an interest required for membership in the Association. The Class B membership shall automatically cease and be converted to Class A memberships on the first to occur, of the following events.

(a) When the total number of votes held by all Class A Members equals the total number of votes held by the Class B Member;

(b) The expiration of two (2) years after the date on which this Declaration is filed for record in the office of the County Recorder of Salt Lake County, Utah.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Personal Obligation and Lien. Each Owner, including Declarant, shall by acquiring or in any way becoming vested with his interest in a Lot, be deemed to covenant and

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agree to pay to the Association the monthly and the special assessments described in this Article, together with the hereinafter provided for interest and costs of collection. All such amounts shall be, constitute, and remain: (a) a charge and continuing lien upon the Lot with respect to which such assessment is made; and (b) the personal obligation of the person who is the owner of such Lot at the time the assessment falls due. No Owner may exempt himself or his Lot from liability for payment of assessments by waiver of his rights concerning the Common Areas or by abandonment of his Lot.

Section 2. Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of residents of the Property. The use made by the Association of funds obtained from assessments may include payment of the cost of: taxes and insurance on the Common Areas; management and supervision of the Common Areas; establishing and funding a reserve to cover major repair or replacement of improvements within the Common Areas; and any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under this Declaration or its Articles of Incorporation.

Section 3. Maximum Monthly Assessment. As of the date set under Section 7 of this Article, each Lot shall be subject to a monthly assessment of not more than \$30.00. From and after January 1, 1979, the monthly assessment may be increased or decreased so long as the change is assented to by more than two-thirds (2/3) of all votes which Members present in person or represented by proxy are entitled to cast at a meeting duly called for such purpose. Written notice setting forth the purpose of the meeting shall be sent to all Members at least thirty (30) days but not more than sixty (60) days prior to the meeting date. The Board of Directors of the Association may from time to time and in its discretion set the amount of the monthly assessment at any sum not in excess of the then applicable maximum amount.

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Section 4. Special Assessments. From and after the date set under Section 7 of this Article, the Association may levy special assessments for the purpose of defraying, in whole or in part: (a) any expense or expenses not reasonably capable of being fully paid with funds generated by monthly assessments; or (b) the cost of any construction, reconstruction, or unexpectedly required repair or replacement in connection with the Common Areas. Any such special assessment must be assented to by more than two-thirds (2/3) of all votes which Members present in person or represented by proxy are entitled to cast at a meeting duly called for the purpose. Written notice setting forth the purpose of the meeting shall be sent to all Members at least thirty (30) days but not more than sixty (60) days prior to the meeting date.

Section 5. Quorum Requirements. The quorum required for any action authorized by Section 3 or 4 above shall be as follows: At the first meeting called the presence of members or of proxies entitled to cast sixty percent (60%) of all outstanding votes shall constitute a quorum. If a quorum is not present at the first meeting or any adjournment thereof, another meeting may be called (subject to the notice requirements set forth in Sections 3 and 4) at which a quorum shall be one-half (1/2) of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the immediately preceding meeting.

Section 6. Uniform Rate of Assessment. Both monthly and special assessments shall be fixed at a uniform rate for all Lots. Declarant, for each unsold Lot owned by it in the Development, shall pay both monthly and special assessments as herein provided for all Lot Owners.

Section 7. Monthly Assessment Due Dates. The monthly assessments provided for herein shall commence as to all Lots on the date deed is delivered to purchaser of a Lot (or contract of sale) or the date of occupancy under an occupancy agreement,

whichever first occurs. The first monthly assessment shall be adjusted according to the number of days remaining in the month of conveyance, contract or occupancy, as the case may be. Thereafter, monthly assessments shall be paid to the Association on or before the 10th day of each month at such place as the Association may direct.

At least 15 days prior to the effective date of any change in amount of the monthly assessment, the Association shall give each Owner written notice of the amount and the first due date of the assessment concerned. The amount of any assessment pursuant to such notice shall continue to be the monthly assessment until modified by any subsequent notice of change in assessment.

Section 8. Certificate Regarding Payment. Upon the request of any Owner or prospective purchaser or encumbrancer of a Lot, the Association shall issue a certificate stating whether or not all assessments respecting such Lot are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all persons who in good faith rely thereon.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the date due shall bear interest from the date due at the rate of 18 per cent per annum. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property, or both. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his Lot.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage to a lending institution to secure a loan for the purchase of a lot or construction thereon. Sale or transfer of any lot shall not

affect the assessment lien. However, the sale or transfer of any lot pursuant to foreclosure of a first mortgage, as described above, or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer, but shall not relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 11. Tax Collection by Salt Lake County Authorized.

It is recognized that under the Declaration the Association will own the Common Areas and that it will be obligated to pay property taxes to Salt Lake County. It is further recognized that each Owner of a Lot as a Member of the Association will be required to pay to the Association for his pro rata share of such taxes paid. Notwithstanding anything to the contrary contained in the Declaration, Salt Lake County shall be authorized to collect such pro rata share of taxes directly from each Owner by inclusion of said share with the tax levied on each lot.

ARTICLE VI

OPERATION AND MAINTENANCE

Section 1. Maintenance of Lots. Each Lot and improvement therein shall be maintained by the owner thereof so as not to detract from the appearance of the property and so as not to affect adversely the value or use of any other Lot. The Association shall have no obligation regarding maintenance or care of Lots.

Section 2. Operation and Maintenance by Association. The Association, or its duly delegated representative, shall provide for such maintenance and operation of the Common Areas as may be necessary or desirable to make them appropriately useable in conjunction with the Lots and to keep them clean, functional, attractive and generally in good condition and repair.

Section 3. Utilities and Services. The Association shall pay for all utilities and other services furnished to each Lot except telephone and other services utilities which are separately billed or metered to individual Lots by the

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utility or other party furnishing such service.

Section 4. Insurance. With respect to their individual lots, Owners shall be responsible to provide any and all forms of insurance, including but not limited to fire, theft, casualty, property, and personal injury, and the Association shall not be responsible for any loss sustained or incurred by any Lot.

With respect to the Common Areas, the Association shall secure and at all times maintain the following insurance coverages:

(a) A policy or policies of fire and casualty insurance, with extended coverage endorsement, for the full insurable replacement value of all improvements comprising a part of the Common Areas. The name of the insured under each such policy shall be in the form and substance similar to: "Westhampton Association, for the use and benefit of the individual Lot Owners and Mortgagees, as their interests may appear."

(b) A policy or policies insuring the Owners, the Association, and its directors, officers, agents and employees against any liability incident to the ownership, use or operation of the Common Areas which may arise among themselves, to the public, and to any invitees or tenants of the Property or of the Owners. Limits of liability under such insurance shall be not less than \$1,000,000.00 for all claims for personal injury and/or property damage arising out of a single occurrence.

The following additional provision shall apply with respect to insurance:

(1) In addition to the insurance described above, the Association shall secure and at all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with developments similar to the Property in construction, nature and use.

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(2) All policies shall be written by a company holding a rating of "AA" or better from Best's Insurance Reports.

(3) The Association shall have the authority to adjust losses.

(4) Insurance secured and maintained by the Association shall not be brought into contribution with insurance held by the individual Owners or their Mortgagees.

(5) Each policy of insurance obtained by the Association shall, if reasonably possible, provide: A waiver of the insurer's subrogation rights with respect to the Association, the Owners, and their respective directors, officers, agents, employees, invitees, and tenants; that it cannot be cancelled, suspended or invalidated due to the conduct of any particular Owner or Owners; that it cannot be cancelled, suspended or invalidated due to the conduct of the Association or of any director, officer agent or employee of the Association without a prior written demand that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Owners.

ARTICLE VII

USE RESTRICTIONS

Section 1. Use of Common Areas. The Common Areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to Lots. No admission fees, charges for use, leases or other income-generating arrangement of any type shall be employed or entered into with respect to any portion of the Common Areas.

Section 2. Land Use and Building Type. No building shall be erected, altered, placed or permitted to remain on any lot other than one unit of a four-plex dwelling not to exceed two (2) stories in height. Provided, however, Declarant may maintain a sales office until all lots on the properties have been sold.

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Section 3. Pets. No animals other than household pets shall be kept or allowed on any Lot, or within any part of the Common Areas. Whenever a pet is allowed to leave a Lot it shall be either on a leash or in a cage.

Section 4. No Leasing of Common Areas. None of the Common Areas, parking space or other amenities contemplated as a part of the development shall be leased to the Owners or to the Association nor shall the same be subject to any other restrictions in favor of the Declarant or any affiliate of such Declarant except as herein expressly provided.

Section 5. Exception for Declarant. Notwithstanding the restrictions contained in this Article VII, for the two (2) year period following the date on which this Declaration is filed for record in the office of the County Recorder of Salt Lake County, Utah, Declarant shall have the right to use any Lot owned by it, and any part of the Common Areas reasonably necessary or appropriate, in furtherance of any construction, marketing, sales, management, promotional, or other activities designed to accomplish or facilitate improvement of the Common Areas or improvement and/or sale of all lots owned by Declarant.

Section 6. Architectural Control. No building, fence, wall or other structure shall be commenced, erected or maintained upon the properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing, as to harmony of external design, size and location in relation to surrounding structures and topography, by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it,

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approval will not be required and this Article will be deemed to have been fully complied with. In order to obtain review by the architectural committee or the Board of Directors, the plans and specifications referred to above must be submitted by personally delivering them to one of the members of the architectural committee or, if such committee is not then in existence, by personally delivering them to the President, Vice President, or Secretary of the Association. The Board or its designated committee shall not unreasonably withhold approval.

Any amendment to the site plan or proposal for construction of fences, buildings or other structures other than as set forth herein shall be filed with the office of County Planning for Salt Lake County, State of Utah.

Section 7. Fences. In order to promote a more pleasing and attractive area for the benefit of all the owners, fences shall be uniform in construction throughout the project as to height, color, kind, shape, materials used and location thereof. The Association shall approve the plans of all fences before construction shall begin. Plans and specifications for fences shall be submitted and approval granted or denied as set forth in this Section 6. No fence shall be constructed or installed as to encroach upon or interfere with any easements, right of way or upon any of the Common Areas. The Association shall from time to time in their discretion establish rules and regulations as to fences and the Association shall have power and authority to enforce said rules and regulations.

If the construction of any fence shall interfere with the coverage of the project sprinkling system, the Lot Owner constructing said fence shall at his expense change the head and system to assure full coverage.

Section 8. Initial Landscaping. In accordance with the site plan and landscaping plan prepared by the Declarant, approved by County Planning and recorded in the office of the County Recorder in and for Salt Lake County, State of Utah,

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it shall be the duty and responsibility of Declarant to landscape the lots and Common Areas in compliance therewith.

Declarant after initial landscaping shall be relieved of its responsibility and duty to thereafter maintain said landscaped areas, and it shall be the continuing duty of the respective owners to maintain and care for their individual Lots.

Lot Owners may at their own expense perform additional landscaping on their individual lots provided that said additional landscaping is approved by the architectural committee in accordance with Section 6 of this Article.

It shall thereafter be the duty of the Association to maintain and care for the Common Areas owned by the Association. As heretofore set forth, the Association shall be authorized to make appropriate and adequate assessments of the owners to effect said maintenance and care of the Common Areas.

Section 9. Failure to Maintain. In the event any Owner of any Lot in the properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory, the Board of Directors, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to landscape, repair, maintain and restore the lot and the exterior of the buildings and any other improvements erected thereon. The cost of such landscaping and exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

Section 10. Easements. Easements for installation and maintenance of utilities and drainage facilities may be reserved by being shown on the recorded plat of the properties. Within any such easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels

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in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. Any easement area of each lot and all improvements in it shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

Section 11. Drainage. No structure or other obstacle shall be erected, placed, or permitted to remain on any lot in such a way as to interfere with the established drainage pattern over the lot to and from adjoining land, or, in the event it becomes necessary to change the established drainage over a lot, adequate provision shall be made for proper drainage.

Section 12. Signs. No sign of any kind shall be displayed to the public view on any lot except one sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by the Developer or a builder to advertise the property during the construction and sales period.

Section 13. Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 14. Garbage and Refuse Disposal. No Lot shall be used as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. Each Lot shall be kept free from weeds and other unsightly objects and conditions.

Section 15. Excavations and Completing Improvements. No excavation shall be made on any Lot except in connection with the erection, alteration or repair of a dwelling or other improvement thereon. When excavation or the erection, alteration or repair of a structure or other improvement has once begun, the work must be prosecuted diligently and completed within a reasonable time.

Section 16. Personal Property. Items of personal property shall not be stored or kept by any Lot Owner on any part of the common area except in storage facilities designated by the Association for that purpose.

ARTICLE VIII

GENERAL PROVISIONS

Section 1. Notices. Any notice required or permitted to be given under the provisions of this Declaration shall be deemed to have been properly furnished if mailed, postage prepaid, to the person to whom notice is directed, a Member or Owner, at the latest address for such person appearing in the records of the Association at the time of mailing.

Section 2. Rules and Regulations. The Association shall have authority to promulgate and enforce such reasonable rules, regulations and procedures as may be necessary or desirable to aid the Association in carrying out any of its functions or to insure that the property is maintained and used in a manner consistent with the interest of the Owners.

Section 3. Amendment. Any amendment to this Declaration shall require: (a) the affirmative vote of at least two-thirds (2/3) of all Class A membership votes which Members present in person or represented by proxy are entitled to cast at a meeting duly called for such purposes; and, so long as the Class B membership exists; (b) the written consent of Declarant. Written notice setting forth the purpose of the meeting and the substance of the amendment proposed shall be sent to all Members at least thirty (30) but not more than sixty (60) days prior to the meeting date. The quorum required for any such meeting shall be as follows: At the first meeting called, the presence of Members or of proxies entitled to cast sixty per cent (60%) of all the votes of the Class A membership shall constitute a quorum. If a quorum is not present at the first meeting or any adjournment thereof, another meeting may be called (subject to the notice requirement set forth in the foregoing portion of this Section 3) at which a quorum shall

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be one-half (1/2) of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting. Any amendment authorized pursuant to this Section shall be accomplished through the recordation of an instrument executed by the Association (and by the Declarant if the Class B membership then exists). In such instrument an officer or director of the Association shall certify that the vote required by this Section for amendment has occurred.

Section 4. Consent in Lieu of Vote. In any case in which this Declaration requires for authorization or approval of a transaction the assent or affirmative vote of a stated percentage of the votes present or represented by a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Members entitled to cast at least the stated percentage of all membership votes outstanding in connection with the Class of membership concerned. The following additional provisions shall govern any application of this Section 4:

(a) All necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Member;

(b) The total number of votes required for authorization or approval under this Section 4 shall be determined as of the date on which the last consent is signed.

(c) Any change in ownership of a Lot which occurs after consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose. A change in ownership which would otherwise result in an increase in the total number of Class A votes outstanding shall, however, be effective in that regard and shall entitle the new owner to give or withhold his consent

Section 5. Reserve Fund. To the extent the same is reasonably possible and practicable and is not inconsistent

with the significant interest of the Lot Owners, the Association shall establish an adequate reserve to cover the cost of reasonable predictable and necessary major repairs and replacements of the Common Areas and exterior maintenance and shall cause such reserve to be funded by regular monthly or other periodic assessments against the Lot Owners rather than by special assessments.

Section 6. Lease Provisions. Any Owner may lease his Lot; provided, however, that any lease agreement between a Lot Owner and a lessee must be in writing and must provide, inter alia, that:

(a) The terms of the lease shall in all respects be subject to the provisions of the Declaration, Articles of Incorporation of the Association and the By-Laws; and

(b) Any failure by the Lessee to comply with the terms of such documents shall constitute a default under the lease.

Section 7. Declarant's Rights Assignable. All or any portion of the rights of Declarant under this Declaration or in any way relating to the Property may be assigned.

Section 8. Interpretation. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

Section 9. Covenants to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Developer and all parties who hereafter acquire any interest

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in a Lot or in the Common Areas. By acquiring any interest in a Lot or in the Common Areas, the party acquiring such interest consents to, shall be subject to, and agrees to be bound by the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration, and failure to comply with any of the foregoing shall be ground for an action by the Association or any aggrieved owner for the recovery of damages, or for injunctive relief, or both.

Section 10. Enforcement. The Association, or any owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 11. Severability. Invalidity of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 12. Annexation. Additional residential property and common area may be annexed to the properties with the consent of two-thirds (2/3) of each class of members.

Section 13. Agent. The name and address of the person in Salt Lake County appointed as first agent to receive service and process for all matters pertaining to the project is:

Larry B. Myers
2863 Oquirrh Drive
Salt Lake City, Utah 84108

Section 14. FHA/VA Approval. Any act of annexing additional property, dedicating of the Common Area or amending of this instrument shall require the prior approval of the Federal Housing Administration and/or the Veterans Administration provided that both of the following conditions exist at the time of any such act: (1) There is still a Class B membership;

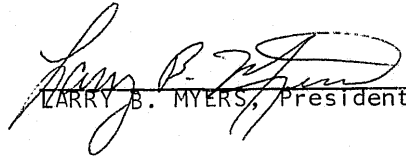
and (2) the F.H.A. or VA has insured or guaranteed any financing of any of the Lots or then holds itself out as willing to do so.

Section 15. Effective Date. This Declaration and any amendment hereof shall take effect upon its being filed for record in the office of the County Recorder of Salt Lake County, Utah.

EXECUTED the day and year first above written.


"DECLARANT"

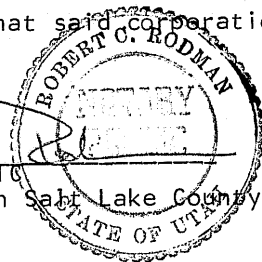
GREAT WEST DEVELOPMENT, INC.


LARRY B. MYERS, President

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

I, the undersigned, a Notary Public duly commissioned to take acknowledgements and administer oaths in the State of Utah, do hereby certify that LARRY B. MYERS, President of GREAT WEST DEVELOPMENT, INC., personally appeared before me and after being duly sworn declared that he has signed the foregoing instrument for and in behalf of the said corporation for the purposes therein mentioned and that said corporation executed the same.


ROBERT C. RODMAN
NOTARY PUBLIC
Residing in Salt Lake County, Utah



My Commission expires:

8/28/01

BY-LAWS OF WESTHAMPTON ASSOCIATION

A PLANNED UNIT DEVELOPMENT

ARTICLE I

Plan of Planned Unit Development Ownership

Section 1. Unit Ownership. The property located in Salt Lake County, Utah, and more particularly described in Appendix "A", hereinafter called the development, the common areas of which have been submitted to the provisions of Utah Condominium Ownership Act, by the declaration recorded in the office of the County Recorder, Salt Lake County, simultaneously herewith.

Section 2. Applicability of By-Laws. The provisions of these By-Laws are applicable to the development and to the use and occupancy thereof. The term development property as used herein shall include the land, the buildings, and all other improvements thereon, all easements, rights and appurtenances belonging thereto, and all other property, personal or mixed, intended for use in connection therewith, the common areas and elements of which are intended to be submitted to the provisions of the Utah Condominium Ownership Act.

Section 3. Application. All present and future owners, mortgagees, lessees, and occupants of units and their employees, and any other persons who may use the facilities of the development in any manner are subject to these By-Laws, the Declaration, and rules and regulations pertaining to the use and operation of the development property. The acceptance of a deed or conveyance of the entering into of a lease, or the act of occupancy of a development unit shall constitute an acceptance of the provisions of these instruments and an agreement to comply therewith.

Section 4. Office The development Management

may not maintain an office. Correspondence should be mailed to the attention of the Management Committee, Westhampton Association, Salt Lake City, Utah.

ARTICLE II

Management Committee

Section 1. Number and Qualification. The affairs of the development shall be governed by the Management Committee. Until eighteen months have elapsed from the time the Declaration and By-Laws have been recorded or until all units are conveyed to individual owners, whichever occurs first, Great West Development, Inc., ("The Declarant") in its sole discretion may determine, and thereafter until their successors shall have been elected by the unit owners the Declarant shall have the right to select the Management Committee. The Management Committee during the course of conversion shall consist of such of the officers and agents of the Declarant as shall have been designated by the Declarant. Thereafter, the Management Committee shall be composed of five persons, all of whom shall be the owners, spouses of owners or mortgagees of development units; or, in the case of partnership owners or mortgagees, members of employees of such partnership, or in the case of corporate owners or mortgagees, officers, shareholders or employees of such corporations; or in the case of fiduciary owners or mortgagees, fiduciaries or officers or employees of such fiduciaries.

Section 2. Powers and Duties. The Management Committee shall have the powers and duties necessary for the administration of the affairs of the development, except as such powers and duties as by law or by the Declaration or by these By-Laws may not be delegated to the Management Committee by the unit owners. The powers and duties to be exercised by

by the Management Committee shall include, but shall not be limited to the following:

(a) Operation, care, upkeep and maintenance of the common elements and areas.

(b) Determination of the amounts required for operation, maintenance, and other affairs of the development

(c) Collection of the common charges from the unit owners;

(d) Employment and dismissal of personnel as necessary for the efficient maintenance and operation of the development;

(e) Adoption and amendment of rules and regulations covering the details of the operation and use of the development property;

(f) Opening of bank accounts on behalf of the development and designating the signatories required therefor;

(g) Obtaining insurance for the development property, including the development units, pursuant to the provisions contained in the declaration; and

(h) Making repairs, additions and improvements to, or alterations of, the development property, and repairs to and reconstruction of the property in accordance with the provisions of the Declaration after damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings.

(i) Acquiring by purchase or lease such capital assets and equipment as may be necessary for maintaining and managing the development, including but not limited to a development unit to be used as an office, office furniture, office equipment, maintenance equipment, trucks and the like;

(j) Taking all steps necessary to incorporate the association of unit owners under the provisions of the Utah

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Business Corporation Act Section 16-10-1 et seq. Utah Code Annotated (1953 as amended).

Section 3. Managing Agent and Manager. The Management Committee may employ for the development a managing agent and a manager at a compensation established by the Management Committee to perform such duties and services as the Management Committee shall authorize, including, but not limited to the duties listed in subdivisions (a), (c), (d), (g) and (h) of Section 2 of this Article II. The Management Committee may delegate to the manager or managing agent, all of the powers granted to the Management Committee by these By-Laws other than the powers set forth in subdivisions (b), (e), (f), (h), and (i) of Section 2 of this Article II.

Section 4. Election and Term of Office. At the first annual meeting of the units owners, the term of office of two members of the Management Committee shall be fixed at three years and the term of office of two members of the Management Committee shall be fixed at two years and the term of office of one member of the Management Committee shall be fixed at one year. At the expiration of the initial term of office of each respective member of the Management Committee, his successor shall be elected to serve for a term of three years. The members of the Management Committee shall hold office until their respective successors shall have been elected by the unit owners.

Section 5. Removal of Members of Management Committee. At any regular or special meeting of unit owners, after the unit owners have assumed the management responsibility, any one or more of the members of the Management Committee may be removed with or without cause by a majority of the unit owners and a successor may then and there or thereafter be elected to fill the vacancy thus created. Any member

of the Management Committee whose removal has been proposed by the unit owners shall be given an opportunity to be heard at the time of the meeting.

Section 6. Vacancies. Vacancies in the Management Committee caused by any reason other than the removal of a member thereof by a vote of the unit owners, shall be filled by vote of a majority of the remaining members at a special meeting of the Management Committee held for that purpose promptly after the occurrence of any such vacancy, even though the members present at such meeting may constitute less than a quorum, and each person so elected shall be a member of the Management Committee for the remainder of the term of the member so removed and until a successor shall be elected at the next annual meeting of the unit owners.

Section 7. Organization Meeting. The first meeting of the members of the Management Committee following the annual meeting of the unit owners shall be held within ten (10) days thereafter, at such time and place as shall be fixed by the unit owners at the meeting at which such Management Committee shall have been elected, and no notice shall be necessary to the newly elected members of the Management Committee in order legally to constitute such meeting, providing a majority of the whole Management Committee shall be present thereat.

Section 8. Regular Meetings. Regular meetings of the Management Committee may be held at such time and place as shall be determined from time to time by a majority of the members of the Management Committee, but at least two such meetings shall be held during each fiscal year. Notice of regular meetings of the Management Committee shall be given to each member of the Management Committee, by mail or

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telephone at least three business days prior to the day named for such meeting.

Section 9. Special Meetings. Special meetings of the Management Committee may be called by the president on three business days' notice to each member of the Management Committee, given by mail or telephone, which notice shall state the time, place and purpose of the meeting. Special meetings of the Management Committee shall be called by the president or secretary in like manner and on like notice on the written request of at least two members of the Management Committee.

Section 10. Waiver of Notice. Any member of the Management Committee may, at any time, waive notice of any meeting of the Management Committee in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Management Committee at any meeting of the Management Committee shall constitute a waiver of notice by him of the time and place thereof. If all of the members of the Management Committee are present at any meeting of the Management Committee, no notice shall be required and any business may be transacted at such meeting.

Section 11. Quorum of Management Committee. At all meetings of the Management Committee, a majority of the members thereof shall constitute a quorum for the transaction of business, and the vote of a majority of the members of the Management Committee present at a meeting at which a quorum is present shall constitute the decision of the Management Committee. If, at any meeting of the Management Committee there shall be less than a quorum present, a

majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called, may be transacted without further notice.

Section 12: Fidelity Bonds. The Management Committee shall obtain adequate fidelity bonds for all officers and employees of the development handling or responsible for development funds. The premiums on such bonds shall constitute a common expense.

Section 13. Compensation. No member of the Management Committee shall receive any compensation from the development for acting as such.

Section 14. Liability of the Management Committee. The members of the Management Committee including Declarant, shall not be liable to the unit owners for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The unit owners shall indemnify and hold harmless each member of the Management Committee including Declarant against all contractual liability to others arising out of contracts made by the Management Committee on behalf of the development unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of these By-Laws. The members of the Management Committee including Declarant shall have no personal liability with respect to any contract made by them on behalf of the association of unit owners. It is intended that the liability of any unit owner arising out of any contract made by the Management Committee or out of the indemnity in favor of the members of the Management Committee shall be limited to such proportion of the total liability thereunder as his

interest in the common elements bears to the interest of all the unit owners in the common elements and areas. Every agreement made by the Management Committee or by the managing agent or by the manager on behalf of the development shall provide that the members of the Management Committee or the managing agent, or the manager, as the case may be, are acting only as agents for the unit owners and shall have no personal liability thereunder (except as unit owners), and that each unit owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his interest in the common elements bears to the interests of all unit owners in the common elements.

Section 15. Right of Entry. The Management Committee or its duly authorized agents shall have the right to enter any or all units in the case of an emergency originating in or threatening such unit or any part of the project, whether or not the unit owner or occupant thereof is present at the time. The Committee or its duly authorized agent shall also have the right to enter into any and all of said units at all reasonable times as required for the purpose of performing emergency installations, alterations, or repairs to the mechanical, electrical or other utility devices or installations located therein or thereon, provided, however, that such emergency, installation, alteration or repair is necessary to prevent damage or threatened damage to such unit or units in the project; and provided further, that the unit owner affected by such entry shall first be notified thereof if available and if time and circumstances shall permit.

Section 16. Administrative Rules and Regulations. The Management Committee shall have the power to adopt, establish and amend by resolution, such building management, and operational rules as it may deem necessary for the maintenance

nance, operation, management and control of the project and the committee may from time to time by resolution, alter, amend and repeal such rules. When a copy of any amendment or alteration or provision for repeal of any rule or rules has been furnished to the unit owners, such amendment, alteration, or repeal shall be deemed to be a part of such rules. Unit owners shall at all times, obey such rules and see that they are faithfully observed by those persons over whom they have or may exercise control and supervision it being understood that such rules shall apply to, and be binding upon all unit owners and/or occupants of any unit.

Section 17. Obligation to Comply with Rules. Each unit owner, tenant or occupant of a unit shall comply with the provisions of the Act, Declaration, By-Laws, the rules and regulations, all agreements and determinations lawfully made and/or entered into by the Management Committee or unit owners, when acting within the scope of their authority and any failure to comply with any of the provisions thereof shall be grounds for an action by the Management Committee for injunctive relief and/or to recover for any loss or damage resulting therefrom.

ARTICLE III

Unit Owners

Section 1. Annual Meetings. Promptly after all units are conveyed to individual owners, or eighteen months after recordation of the Declaration has elapsed, whichever occurs first, the Declarant shall notify all unit owners of the first annual meeting of the unit owners which shall be held within thirty (30) days thereafter on a call issued by the president. At such meeting the officers and directors

of the Declarant shall resign as members of the Management Committee and all responsibility and obligations Declarant may have shall cease, and all unit owners, including the Declarant, shall elect a new Management Committee which shall immediately assume all such responsibilities and obligations on behalf of the unit owners. Thereafter, the annual meetings of the unit owners shall be held on the 15th day of January of each succeeding year, unless such date shall occur on a Saturday or Sunday, in which event the meeting shall be held on the succeeding Monday. At such meetings the Management Committee shall be elected by ballot of the unit owners in accordance with the requirements of Section 4 of Article II of these By-Laws. So long as the Declarant shall own one or more development units, the Declarant shall be entitled to elect at least one member of the Management Committee who shall serve for a term of one year. The unit owners may transact such other business at such meetings as may properly come before them.

Section 2. Place of Meetings. Meetings of the unit owners shall be held at such suitable place convenient to the owners as may be designated by the Management Committee.

Section 3. Special Meeting. It shall be the duty of the President to call a special meeting of the unit owners if so directed by resolution of the Board of Managers or upon a petition signed and presented to the Secretary by unit owners owning a total of at least 25% of the common interest. The notice of any special meeting shall state the time, place, and purpose of the meeting. No business shall be transacted at a special meeting except as stated in the notice.

Section 4. Notice of Meetings. The Secretary shall mail to each unit owner of record a notice of each annual or special meeting of the unit owners, at least ten (10)

but not more than twenty (20) days prior to such meeting, stating the purpose thereof as well as the time and place where it is to be held, at the building or at such other address as such unit owner shall have designated by notice in writing to the Secretary. The mailing of a notice of meeting in the manner provided in this section shall be considered service of notice.

Section 5. Adjournment of Meetings. If any meeting of the unit owners cannot be held because a quorum has not attended, a majority in common interest of the units owners who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than 48 hours from the time the original meeting was called.

Section 6. Order of Business. The order of business at all meetings of the unit owners shall be as follows:

- (a) Roll Call;
- (b) Proof of Notice of meeting;
- (c) Reading of minutes of preceding meeting;
- (d) Reports of officers;
- (e) Report of Management Committee;
- (f) Reports of committees;
- (g) Election of inspectors of election (when so required);
- (h) Election of members of the Management Committee (when so required);
- (i) Unfinished business; and
- (j) New business.

Section 7. Title to development Units. Title to development units may be taken in the name of an individual or in the names of two or more persons, as tenants in common or as joint tenants, or in the name of a corporation or

partnership, or in the name of a fiduciary.

Section 8. Voting. The owner or owners of each development unit, or some person designated by such owner or owners to act as proxy on his or their behalf and who need not be an Owner, shall be entitled to cast the votes appurtenant to such development unit at all meetings of unit owners. The designation of any such proxy shall be made in writing to the Secretary, and shall be revocable at any time by written notice to the Secretary by the Owner or Owners so designating. The total number of votes of all unit owners shall be 20 and each unit owner shall be entitled to cast one vote at all meetings of the unit owners. A fiduciary shall be the voting member with respect to any development unit owned in a fiduciary capacity.

Section 9. Majority of Unit Owners. As used in these By-Laws the term "majority of unit owners" shall mean those unit owners more than 50% of the total authorized votes of all unit owners present in person or by proxy and voting at any meeting of the unit owners.

Section 10. Quorum. Except as otherwise provided in these By-Laws or Declarations the presence in person or by proxy of unit owners having thirty-five percent of the total authorized votes of all unit owners shall constitute a quorum at all meetings of the unit owners.

Section 11. Majority Vote. The vote of a majority of unit owners at a meeting at which a quorum shall be present shall be binding upon all unit owners for all purposes except where a higher percentage vote is required by law, by the Declaration, or by these By-Laws.

ARTICLE IV

Officers

Section 1. Designation. The principal officers of

the development shall be the President, the Vice-President, the Secretary, the Treasurer, all of whom shall be elected by the Management Committee. The Management Committee may appoint an Assistant Treasurer, and Assistant Secretary, and such other officers as in its judgment may be necessary. The President and Secretary must be members of the Management Committee.

Section 2. Election of Officers. Officers shall be elected annually by the Management Committee at the organization meeting of each new Management Committee, and shall hold office at the pleasure of the Management Committee.

Section 3. Removal of Officers. Upon the affirmative vote of a majority of the members of the Management Committee any officer may be removed, either with or without cause, and his successor may be elected at any regular meeting of the Management Committee or at any special meeting of the Management Committee called for such purpose.

Section 4. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the unit owners of the Management Committee. He shall have all of the general powers and duties which are incident to the office of president of a corporation organized under the Business Corporation Act of the State of Utah, including but not limited to the power to appoint from among the unit owners any committee which he decides is appropriate to assist in the conduct of the affairs of the development.

Section 5. Vice-President. The Vice-President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice-President is able to act, the Management Committee shall appoint some other

member of the Management Committee to act in the place of the President, on an interim basis. The Vice-President shall also perform such other duties as shall from time to time be imposed upon him by the Management Committee or by the President.

Section 6. Secretary. The Secretary shall keep the minutes of all meetings of the unit owners and of the Management Committee. He shall have charge of such books and papers as the Management Committee may direct; and he shall, in general, perform all the duties incident to the office of secretary of a corporation organized under the Business Corporation Act of the State of Utah.

Section 7. Treasurer. The Treasurer shall have the responsibility for development funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial statements. He shall be responsible for the deposit of all moneys and other valuable effects in the name of the Management Committee, or the managing agent, in such depositories as may from time to time be designated by the Management Committee, and he shall, in general, perform all the duties incident to the office of treasurer of a corporation organized under the Business Corporation Act of the State of Utah.

Section 8. Agreements, Contracts, Deeds, Checks, Etc. All agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by any two officers of the Association or by such other person or persons as may be designated by the Management Committee.

Section 9. Compensation of Officers: No officer shall receive any compensation from the Association for acting

as such.

ARTICLE V

Operation of the Property

Section 1. Determination of Common Expenses and Common Charges. The Management Committee shall from time to time, and at least annually, prepare a budget for the development, determine the amount of the common charges required to meet the common expenses of the development and allocate and assess such common charges against the unit owners according to their respective common interests. The common expenses shall include, among other things, the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Management Committee pursuant to the provisions of Section 2, of this Article V and the fees and disbursements of the Management Committee. The common expenses may also include such amounts as the Management Committee may deem proper for the operation and maintenance of the development property, including, without limitation, an amount for working capital of the development for a general operating reserve and shall include for a reserve fund for replacements, maintenance and repairs and to make up any deficit in the common expenses for any prior year. The Management Committee shall advise each unit owner in writing of the amount of common charges payable by him and shall furnish copies of each budget on which such common charges are based to all unit owners and to their mortgagees. In the event that such assessment shall result in any excess for any one year, the Management Committee may refund the excess to the unit owners or apply such excess to assessments for the succeeding year.

That portion of the common assessments payable by each

unit owner in and for each year or for a portion of a year shall be a sum equal to 1/84 of the aggregate amount of such cash requirements for each year, or a portion of a year together with any additional sums accruing under this Declaration, By-Laws or the Act shall be payable monthly in advance, or in such payments and installments as shall be required by the Management Committee, and at such times as shall be provided by the Management Committee.

The Management Committee shall have absolute discretionary authority to prescribe the manner of maintaining and operating the project and to determine the cash requirements of the Management Committee to be paid as aforesaid by the owners under this Declaration. Any such determination by the Management Committee within the bounds of the Act, By-Laws or this Declaration shall be final and conclusive on the unit owners, and any expenditures made by the Management Committee within the bounds of the Act, By-Laws or Declaration shall be deemed necessary and proper for such purpose as against the unit owners.

Section 2. Insurance. The Management Committee shall be required to obtain and maintain, to the extent obtainable, the following insurance:

(a) Fire insurance with extended coverage, vandalism, and malicious mischief endorsements, insuring the common area buildings, together with all air conditioning equipment and other service machinery contained therein; such insurance shall cover the Association, the Management Committee, and all unit owners and their mortgagees, as their interests may appear, in an amount equal to the full replacement value of the improvements, without deduction for depreciation. Each policy shall contain a standard mortgage clause in favor of each mortgagee of a development

unit which shall provide the proceeds shall be payable to such mortgagee as its interest may appear, subject, however, to payment provisions in favor of the Management Committee herein-after set forth;

- (b) Workmen's compensation insurance;
- (c) Water damage insurance;
- (d) Such other insurance as the Management Committee may determine.

All such policies shall provide that adjustment of loss shall be made by the Management Committee, and that the net proceeds thereof shall be payable to the Management Committee.

All policies of physical damage insurance shall contain waivers of subrogation and waivers of any defense based on coinsurance or of invalidity arising from any acts of the insured, and shall provide that such policies may not be cancelled or substantially modified without at least ten days' prior written notice to all of the insureds, including all mortgagees of development units. Duplicate originals of all policies of physical damage insurance and of all renewals thereof, together with proof of payment of premiums, shall be delivered to all mortgagees of development units at least ten days prior to expiration of the then current policies. Prior to obtaining any policy of fire insurance or any renewal thereof, the Management Committee shall obtain an appraisal from a fire insurance company or otherwise of the full replacement value of the common area building and improvements, without deduction for depreciation, for the purpose of determining the amount of fire insurance to be effected pursuant to this section.

The Management Committee shall also be required to obtain and maintain, to the extent obtainable, public liability insurance in such amounts as the Management

Committee may from time to time determine, covering each member of the Management Committee, the managing agent, the manager, and each unit owner. Such public liability coverage shall also cover cross liability claims of one insured against another. The Board of Managers shall review such limits once each year.

Unit owners shall not be prohibited from carrying other insurance for their own benefit provided that all policies shall contain waivers of subrogation and further provided that the liability of the carriers issuing insurance obtained by the Management Committee shall not be affected or diminished by reason of any such additional insurance carried by any unit owner.

Section 3. Repair or reconstruction after damage. In the event of damage to or destruction of any building or other improvement as a result of fire or other casualty (unless 75% or more of the building is destroyed or substantially damaged and 75% or more of the Association members do not duly and promptly resolve to proceed with repair or restoration), the Management Committee shall arrange for for the prompt repair and reconstruction of the buildings, and the Management Committee shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in excess of the insurance proceeds shall constitute a common expense and the Management Committee may assess all the unit owners for such deficit as part of the common charges.

If 75% or more of the building is destroyed or substantially damaged and 75% or more of the unit owners do not duly and promptly resolve to proceed with repair or reconstruction, the net proceeds of insurance policies (of if there shall have been a repair or restoration pursuant to the first paragraph of this Section 3, and the amount of insurance proceeds shall have exceeded the cost of such repair or restoration then the excess of such insurance proceeds) shall be divided by the

Management Committee among all the Association Members in proportion to their respective common interests.

Section 4. Payment of Common Charges. All unit owners shall be obligated to pay the common charges assessed by the Management Committee pursuant to the provisions of Section 1 of Article V at such time to times as the Management Committee shall determine.

No unit owner shall be liable for the payment of any part of the common charges assessed against his lot subsequent to a sale, transfer, or other conveyance by him thereof (made in accordance with the provisions of Section 1 of Article VII of these By-Laws). Joint purchasers of a development unit shall be jointly and severally liable for the payment of common charges assessed against a development unit subsequent to the acquisition by them of such lot. A mortgage or other purchaser of a development unit at a foreclosure sale of such development unit shall not be liable for and such development unit shall not be subject to a lien for the payment of common charges assessed prior to the foreclosure sale.

Section 5. Collection of Assessments. The Management Committee shall assess common charges against the unit owners from time to time and at least annually and shall take prompt action to collect from a unit owner any common charge due which remains unpaid by him for more than 30 days from the due date of its payment.

Section 6. Default in Payment of Common Charges.

(a) If any unit owner shall fail or refuse to make any payment of the common expenses when due, the amount thereof shall constitute a lien on the interest of the owner of the property, and upon the recording of notice thereof by the Management Committee shall be a lien upon the unit owner's interest in the property prior to all other liens and encumbrances, recorded and unrecorded, except only:

- (1) tax and special assessment liens; and
- (2) prior recorded encumbrances which are superior as a matter of law.

(b) In the event of default by any unit owner in

paying to the Management Committee the assessed common charges, such unit owner shall be obligated to pay interest at the legal rate on such common charges from the date due thereof, together with all expenses, including attorney's fees, incurred by the Management Committee in any proceeding brought to collect such unpaid common charges. The Management Committee shall have the right and duty to attempt to recover such common charges, together with interest thereon, and the expenses of the proceeding, including attorney's fees, in an action brought against such unit owner, or by foreclosure of the lien on such unit.

(c) Upon payment of a delinquent assessment, the Management Committee shall cause a satisfaction of lien filed in cases where a notice of lien had been filed.

(d) If a unit owner shall at any time let or sublet the unit and shall be in default for a period of one month in the payment of any assessments, the Management Committee may, at its option, so long as such default shall continue, demand and receive from any tenant or subtenant of the owner occupying the unit the rent due or becoming due and payment of such rent to the Management Committee shall be payment and discharge of such tenant or subtenant and the owner of the unit to the extent of the amount so paid. No action on the part of the Management Committee under this section shall have the effect of relieving its unit owner of primary liability.

Section 7. Foreclosure of Liens for Unpaid Common Charges. In any action brought by the Management Committee to foreclose a lien on a development unit because of unpaid common charges, the unit owner shall be required to pay a reasonable rental for the use of his development unit and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect such rental. The Management Committee acting on behalf of all unit owner, shall have power to purchase such development unit at the foreclosure sale and to acquire hold, lease, mortgage, vote the votes appurtenant to, convey, or otherwise deal with the same. A suit to recover a money judgment for unpaid common

charges shall be maintainable without foreclosing or waiving the lien securing the same.

Section 8. Statement of Common Charges. The Management Committee shall promptly provide any unit owner, who makes a request in writing with a written statement of his common charges.

Section 9. Abatement and Enjoining of Violations. The violation of any rule or regulation adopted by the Management Committee, or the breach of any By-Law contained herein, or the breach of any provision of the declaration, shall give the Management Committee the right, in addition to any other rights available at law or set forth in these By-Laws:

(a) to enter the development unit in which, or to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting unit owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions thereof, and the Management Committee shall not thereby be deemed guilty in any manner of trespass; or

(b) to enjoin, abate or remedy such thing or condition by appropriate legal proceedings.

Section 10. Maintenance and Repair.

(a) All maintenance of and repairs to any apartment unit, structural or non-structural, ordinary or extraordinary, (other than maintenance of and repairs to any common elements contained therein not necessitated by the negligence, misuse, or neglect of the owner of such development unit) shall be made by the owner of such development unit) shall be made by the owner of such development unit. Each unit owner shall be responsible for all damages to any other development unit and to the common elements resulting

from his failure to effect such maintenance and repairs.

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

Section 11. Use of Development Units. In order to provide for congenial occupancy of the development property and for the protection of the value of the development units, the use of the development property shall be subject to the following limitations:

(a) The development units shall be used for residences only, except as the association may choose to purchase and use a unit as a management office or for any other lawful purpose not repugnant to a residential development.

(b) The common elements shall be used only for the furnishing of the services and facilities for which they are reasonably suited and which are incidental to the use and occupancy of development units.

(c) No nuisance shall be allowed on the development property nor shall any use or practice be allowed which is a source of annoyance to its residents or which interferes with the peaceful possession or proper use of the development property by its residents.

(d) No immoral, improper, offensive, or unlawful use shall be made of the development property or any part thereof, and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction there shall be complied with. Such compliance shall be accomplished

at the sole expense of the unit owners or the Management Committee whichever shall have the obligation to maintain or repair such portion of the development property.

(e) No portion of a development unit (other than the entire development unit) may be rented, and no transient tenants may be accommodated therein.

Section 12. Additions, Alterations or Improvements by Unit Owners. No unit owner shall make any structural addition, alteration or improvement in or to his development unit, without the prior written consent thereto of the Management Committee. The Management Committee shall have the obligation to answer any written request by a unit owner for approval of a proposed structural addition, alteration or improvement in such unit owner's development unit within 15 days of such request and failure to do so within the stipulated time shall constitute a consent by the Management Committee to the proposed addition, alteration or improvement. Any application to any governmental authority for a permit to make an addition, alteration or improvement in or to any development unit shall be executed by the Management Committee. The Management Committee shall not be liable to any contractor, subcontractor, materialman or to any person sustaining personal injury or property damage, for any claim arising in connection with such addition, alteration or improvement. The provisions of this Section 13 shall not apply to development units owned by the Declarant until such development units shall have been initially sold by the Declarant and paid for.

Section 13. Water Charges and Sewer Rents. Water shall be supplied to all of the development units and the common elements through one meter and the Management Committee shall pay, as a common expense, all charges for water consumed on

the development property, together with all related sewer rents arising therefrom, promptly after the bills therefore are rendered. In the event of a proposed sale of a development unit by the owner thereof, the Management Committee, on request of the selling unit owner, shall execute and deliver to the purchaser of such development unit or to the purchaser's title insurance company, a letter agreeing to pay all charges for water and sewer rents affecting the property as of the date of the closing of title to such development unit or to the purchaser's title insurance company, a letter agreeing to pay all charges for water and sewer rents affecting the property as of the date of closing of title to such development unit or to the purchaser's title insurance company, a letter agreeing to pay all charges for water and sewer rents affecting the property as of the date of closing of title to such development unit promptly after such charges shall have been billed by the appropriate collector.

Section 14. Other Utilities. Other utilities shall be supplied by the public utility company serving the area directly to each development unit through a separate meter and each unit owner shall be required to pay the bills therefor. The utilities serving the common elements shall be separately metered, and the Management Committee shall pay all bills for those utilities in such portions of the common elements, as a common expense.

Section 15. Taxes. Each unit and its interest in the Association (common area and facilities) shall be deemed to be a parcel and shall be subject to separate assessment and taxation by each assessing unit and special district for all types of taxes authorized by law including, but not limited to, advalorem liens and special assessments.

ARTICLE VI

Mortgages

Section 1. Mortgage of Condominium Units. No unit owner shall mortgage his development unit except by a mortgage made to a bank, trust company, insurance company, federal savings and loan association, pension fund, other institutional lender, or any other mortgage company, or individual. Any such mortgage shall be substantially in the form on file with the Management Committee, except for such form changes or additions as may be required in order to permit the particular lender to make the mortgage loan.

Section 2. Notice to Management Committee. A unit owner who mortgages his development unit shall notify the Management Committee of the name and address of his mortgagee and shall file a conformed copy of the note and mortgage with the Management Committee. The Management Committee shall maintain such information in a book entitled "Mortgages of development Units."

Section 3. Notice of Unpaid Common Charges. The Management Committee, whenever so requested in writing by a mortgagee of a development unit, shall promptly report any then unpaid common charges or other default by the owner of the mortgaged development unit.

Section 4. Notice of Default. The Management Committee when giving notice to a unit owner of a default in paying common charges or other default, shall send a copy of such notice to each holder of a mortgage covering such development unit whose name and address has theretofore been furnished to the Management Committee.

Section 5. Examination of Books. Each unit owner and mortgagee of a development unit shall be permitted to examine the books of account of the development at reasonable times on business days, but not more often than once a month.

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ARTICLE VII

Sales and Leases of Units

Section 1. Sales and Leases. No unit owner may sell or lease his development unit or any interest therein except by complying with the provisions of this section. A unit owner's sale of his development unit shall include the sale of:

(a) the undivided interest in the Association's appurtenant thereto; and

(b) the interest of such unit owner in any other assets of the development hereinafter collectively called the appurtenant interests.

Section 2. No Severance of Ownership. No unit owner shall execute any deed, mortgage, or other instrument conveying or mortgaging title to his development unit without including therein the appurtenant interests, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage or other instrument purporting to affect one or more of such interests, without including all such interests, shall be deemed and taken to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or described therein. No part of the appurtenant interests of any condominium unit may be sold, transferred or otherwise disposed of, except as part of a sale, transfer, or other disposition of the development unit to which such interests are appurtenant, or as part of a sale, transfer or other disposition of such part of the appurtenant interests of all development units.

Section 3. Gifts and Devises, Etc. Any unit owner shall be free to convey or transfer his development unit by gift, or to devise his development unit by will, or to pass the same

by intestacy, without restriction.

Section 4. Payment of Assessments. No unit owner shall be permitted to convey, mortgage, pledge, hypothecate, sell, or lease his development unit unless and until he shall have paid in full to the Management Committee all unpaid common charges theretofore assessed by the Management Committee against his development unit and until he shall have satisfied all unpaid liens against such development unit, except permitted mortgages.

ARTICLE VIII

Condemnation

Section 1. Condemnation. In the event of a taking in condemnation or by eminent domain, part of all of the common elements, the award made for such taking shall be payable to the Management Committee. If 75% or more of the unit owners duly and promptly approve the repair and reconstruction of such common elements, and the Management Committee shall disburse the proceeds of such award to the contractors engaged in such repair and reconstruction in appropriate progress payments. In the event that 75% or more of the unit owners do not duly and promptly approve the repair and reconstruction of such common elements, the Management Committee shall disburse the net proceeds of such award in the same manner as they are required to distribute insurance proceeds where there is no repair or restoration of the damage, as provided in Section 3 of Article V of these By-Laws.

ARTICLE IX

Records

Section 1. Records and Audits. The Management Committee

or the managing agent shall keep detailed records of the actions of the Management Committee and the managing agent, minutes of the meeting of the Management Committee, minutes of the meetings of the unit owners, and financial records and books of account of the development, including a chronological listing of receipts and expenditures, as well as a separate account for each development unit which, among other things, shall contain the amount of each assessment of the common charges against such development unit, the date when due, the amounts paid thereon, and the balance remaining unpaid. A written report summarizing all receipts and expenditures of the development shall be rendered by the Management Committee to all unit owners at least quarterannually. In addition, an annual report of the receipts and expenditures of the development, certified by an independent certified public accountant shall be rendered by the Management Committee to all unit owners and to all mortgagees of development, units who have requested the same, promptly after the end of each fiscal year.

ARTICLE X

Miscellaneous

Section 1. Notices. All notices to the Management Committee shall be sent by registered or certified mail, in care of the managing agent, or if there is no managing agent, to the office of the Management Committee or to such other address as the Management Committee may hereafter designate from time to time. All notices to any unit owner shall be sent by registered or certified mail to the building or to such other address as may have been designated by him from time to time, in writing, to the Management Committee. All notices shall be deemed to have been given when mailed, except notices

of change of address which shall be deemed to have been given when received.

Section 2. Invalidity. The invalidity of any part of these By-Laws shall not repair or affect in any manner the validity, enforceability or effect of the balance of these By-Laws.

Section 3. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these By-Laws, or the intent of any provision thereof.

Section 4. Gender. The use of the masculine gender in these By-Laws shall be deemed to include the feminine gender and the use of the singular shall be deemed to include the plural, whenever the context so requires.

Section 5. Waiver. No restriction, condition, obligation or provision contained in these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

ARTICLE XI

Amendments to By-Laws

Section 1. Amendments to By-Laws. Except as provided otherwise herein and except for the provisions herein for the benefit of any first mortgagee, these By-Laws may be modified or amended by the vote of 51% of the members of the Association of all unit owners at a meeting of unit owners duly held for such purposes. Amendments, other than minor administrative matters, can only be made with the written approval of those mortgagees holding mortgages constituting first liens upon 25 or more development units; however, Section 1 of Article III, insofar as it provides that the

Declarant, so long as it is the owner of one or more development units, shall be entitled to elect at least one member of the Management Committee; and Section 8 of Article III, insofar as it provides that the Declarant, so long as it is the owner of one or more development units, may vote the votes appurtenant thereto; and this Section 1 of Article XI, may not be amended without the consent in writing of the Declarant, so long as the Declarant shall be the owner of one or more units.

ARTICLE XII

Conflicts

Section 1. Conflicts. These By-Laws are set forth to comply with the requirements of the Condominium Ownership Act of the State of Utah. In case any of these By-Laws conflict with the provisions of such statute or of the Declaration, the provisions of such statute or of the Declaration, as the case may be, shall not control.