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Request of SECURITY TITLE COMPANY

For Part 1, K. 15 1. 1

Recorded in the County of

By: [Signature] Deputy

DECLARATION OF CONDOMINIUM OF THE
TIDEWATER VILLAGE CONDOMINIUM

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EXHIBITS:

- A. Record of Survey Map of the Tidewater Village Condominium
- B. Unit Number and Percent of Undivided Interest in Common
Areas and Facilities
- C. Articles of Incorporation of Tidewater Village Condominium
Owners Association
- D. Bylaws of Tidewater Village Condominium Owners Association

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THIS DECLARATION OF CONDOMINIUM of the Tidewater Village Condominium, hereinafter referred to as the "Declaration", is made and executed by G. Thomas and Darlene Dipo, ("declarant"), pursuant to the provisions of the Condominium Ownership Act, Utah Code Annotated (1953), Section 57-8-1 through 57-8-36, as the same may be amended from time to time hereinafter referred to as the "Act."

1. Recitals

1.1 Declarant, and the persons joining in this declaration are the owners of the real property and improvements ("property") located in Salt Lake County, Utah, hereinafter more particularly described.

1.2 Declarant, by recording this declaration, submits the Property to the provisions of the Act.

1.3 The covenants, conditions, and restrictions contained in this declaration and in the Exhibits hereto shall be enforceable equitable servitudes and shall run with the land.

1.4 Declarant has filed simultaneously herewith a Record of Survey Map depicting the location and dimensions of the submitted land, and plans of every structure which contains all or part of any unit or units.

1.5 The Property shall be known as Tidewater Village Condominium. The address of the Property is 1348 East Murray-Holladay Road, Salt Lake County, Utah 84117.

1.6 The Tidewater Villiage Condominium is intended as an Expandable Condominium. Declarant anticipates that the Project created hereby will be but the initial phase of a larger condominium project which ultimately

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may come into existence. Accordingly, Declarant desires to reserve the right to include each additional phase as a part of one Project consisting of all phases which may be completed at any given time.

2. Definitions

The terms used herein shall have the same meaning as set forth in the Act and as follows, unless the context otherwise requires:

a. "additional land" - The real property described in paragraph 6.3 and more fully described in the plat depicting additional land which is page three of the Record of Survey Map, (Exhibit A), which has not yet been submitted to the provisions of the act, but which may hereafter be added as a whole or in part to the Tidewater Villiage Condominium as provided in paragraph 6.

b. "association of unit owners" - All of the unit owners acting as a group in accordance with the Bylaws and Declaration to govern the affairs of the Tidewater Villiage Condominium.

c. "building" - A structure containing one or more units that has been or shall hereafter be constructed on the land.

d. "common areas and facilities" - The land within the condominium project which is hereby submitted to the provisions of the Act; all common areas and facilities as hereinafter described and as designated as such in the Record of Survey Map (Exhibit A); all limited common areas and facilities as hereinafter described and as designated as such in the Record of Survey Map (Exhibit A); the foundations, columns, girders, beams, supports, perimeter and bearing walls, roofs, halls, stairs, stairways, and entrances and exits designed for the use of more

than one unit of the buildings; the sidewalks, walkways, patios, landscaped and planted areas, parking areas access roads, driveways, fences and walls, exterior lighting, and storage areas; installations such as power, light, gas, hot and cold water, existing for common use; all apparatus and installations existing for common use; recreational and other community facilities; all portions of the Property not specifically included within the individual units; and all other parts of the Property necessary or convenient to its existence, maintenance and safety, or normally in common use, and all areas and facilities designated as common areas and facilities in the Act.

e. "common expenses" - All expenditures lawfully made or incurred by or on behalf of the unit owners association, together with all funds lawfully assessed for the creation and/or maintenance of reserves; including those reserves set aside for the repair, maintenance and replacement of those common areas and facilities that must be refurbished and/or replaced on a periodic basis.

f. "common profits" - All income collected or accrued by or on behalf of the unit owners association, other than income derived from assessments.

g. "condominium unit" - A unit together with the undivided interest in the common areas and facilities appertaining to that unit.

h. "declarant" - All persons who execute the declaration or on whose behalf the Declaration is executed. From the time of the recordation of any amendment to the Declaration expanding an expandable condominium, all persons who executed that amendment or on whose behalf that amendment

is executed shall also come within this definition. Any successors of the persons referred to in this subsection who come to stand in the same relation to the condominium as their predecessors did shall also come within this definition.

i. "declaration"-This instrument by which the property is submitted to the provisions of the Condominium Ownership Act and its lawful amendments.

j. "expandable condominium"- A condominium to which additional land may be added in accordance with the provisions of the Declaration and the Act.

k. "limited common areas and facilities"- Common areas and facilities described in the Record of Survey Map (Exhibit "A") which are appurtenant to and which have been designated in the Declaration as reserved for the use of one or more of the units to the exclusion of the others.

l. "majority" or "majority of unit owners"- The majority of voting unit owners.

m. "management committee"- The governing board of the Tidewater Villiage Condominium Owners Association, a nonprofit corporation, which shall manage and maintain the Property and conduct the affairs of the Association for and in behalf of the Association as provided in the Act, the Utah Non profit Corporation and Cooperative Association Act, the Articles of Incorporation of the Owners Association, and the Bylaws and all rules and regulations made pursuant thereto.

n. "mortgage"- Any mortgage or deed of trust or other conveyance of a unit to secure the performance of an obligation which will be void and reconveyed upon the completion of such performance. The term "deed

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of trust" or "trust deed" when used herein shall be synonymous with the term "mortgage".

o. "mortgagee" - Any person or entity that is a holder of a mortgage or a beneficiary of a deed of trust. The term "first mortgage" shall mean the person or entity holding a mortgage on the unit which is first in priority to other mortgagees. "Mortgagor" shall mean a person or entity who mortgages his or its property to another (i.e., the maker of a mortgage) and shall include the Trustor of a deed of trust. The term "trustor" shall be synonymous with the term "mortgagor".

p. "phase" - Each separate step in development of the Tidewater Villiage Condominium which is initiated through the submission of all or any portion of the additional land to the provisions of the Act. The term shall also include all improvements which are constructed and all appurtenances, rights, obligations, and legal relationships which come into existence in conjunction with the submission of all or any portion of the additional land to the provisions of the Act. The submission which is effected by this Declaration, the rights and obligations which are created by this Declaration, and the improvements described in the Record of Survey Map which have been or will be constructed, together constitute a Phase, to-wit: Phase No. I of the Tidewater Villiage Condominium.

q. "property" - The land, the buildings, improvements and structures, all easements, servitudes, rights and appurtenances belonging thereto, and all chattels intended for use in connection therewith, which have been or are intended to be submitted to the provisions of the Condominium Ownership Act.

r. "articles of incorporation" - The Articles of Incorporation of the Tidewater Villiage Condominium Owners Association, a Nonprofit Corporation, attatched hereto as Exhibit "C" and which is incorporated herein by reference.

s. "bylaws" - The Bylaws of the Tidewater Villiage Condominium Owners Association attatched hereto as Exhibit "D" and which is incorporated herein by reference.

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t. "record of survey map" - The Record of Survey Map of the Tidewater Villiage Condominium, a Tom Dipo Development filed herewith consisting of three (3) pages, and prepared and certified by Richard P. Sorensen, a duly registered Utah Land Surveyor having Certificate No. 1798., which is incorporated herein by reference.

u. "unit" - A portion of the condominium designed and intended for individual ownership and use.

3. Description of the Condominium

3.1 Description of the Land

The land on which the buildings and other improvements are to be located is in Salt Lake County, Utah, and is more particularly described as follows, to wit:

Beginning at a point in the center of 1300 East Street said point being N89 degrees 57'30"W 358.62 feet and N 0 degrees 07'E 677.901 feet and N 0 degrees 56'30"E 1041.06 feet from the West Quarter corner of Section 9, Township 2 South, Range 1 East, Salt Lake Base & Meridian and running thence S 87 degrees 24'E 710.50 feet; thence N 0 degrees 10'W 43.50 feet; thence N 37 degrees 12'E 26.63 feet; thence N 75 degrees 52'15"W 145.28 feet; thence Northwesterly on a curve to the left (the radius point of which is N 75 degrees 52'15"W 45.0 feet) a distance of 59.68 feet; thence Northwesterly on a curve to the right (radius point being N 28 degrees 08'37"E 15.0 feet) a distance of 12.62 feet; thence N 13 degrees 40'W 95.48 feet; thence N 33 degrees 09'45"W 106.94 feet to Murray-Holladay Road; thence S 56 degrees 50'15"W 59.44 feet along said road; thence southwesterly along the southerly right of way line of the Murray-Holladay Road on a curve to the right (radius point being N 33 degrees 09'45"W 709.08 feet) a distance of 408.40 feet; thence S 89 degrees 50'15"W 35.58 feet to the centerline of 1300 East Street; thence S 0 degrees 56'30"W 162.51 feet along said centerline to the point of beginning.

3.2 Description of the Buildings and Other Improvements

The Tidewater Villiage Condominium Project will initially consist of nine (9) buildings containing eighteen (18) two and three level

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units. Units 1-8 have basements; units 9-18 do not. The buildings are attached duplex structures constructed of wood, brick masonry, and concrete with vinyl exterior siding, asphalt shingle roofs, and attached double garages. The interior partitions between units consist of double stud walls, divided by soundboard and faced with gypsum sheetrock. The interior floors are of concrete or plywood construction with carpet, vinyl and tile floor coverings. The buildings are supplied with gas, electricity, water, sewage, and garbage collection service, and TV antennas. Each unit is equipped with individual heating and air conditioning equipment. Other significant improvements in the Tidewater Villiage Condominium include roadways, parking spaces, driveways, and sidewalks. The buildings and other significant improvements in the Tidewater Villiage Condominium are more fully depicted in the Record of Survey Map, which is annexed hereto and made a part hereof as Exhibit A. The Record of Survey Map is a survey of the land and graphic description and plot plans of the improvements constituting the Tidewater Villiage Condominium. The Record of Survey Map identifies, describes, and locates the buildings, units, and common areas and facilities included within the Tidewater Villiage Condominium.

3.3 Description of the Units

The Tidewater Villiage Condominium will include a total of eighteen (18) residential condominium units. Each of the units is described in the Record of Survey Map (Exhibit A). Each unit depicted in the Record of Survey Map is identified by a specific numeral designation. The Record of Survey Map also describes the limited common

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areas and facilities which are reserved for the exclusive use of one or more of the units, and the common areas and facilities to which each unit has immediate access. All units shall be capable of being independently owned, encumbered, and conveyed. A condominium unit shall include that part of the building containing the unit which lies within the boundaries of the unit, which boundary shall be determined in the following manner:

a. The upper boundary shall be the place of the lower surface of the uppermost ceiling;

b. The lower boundary shall be the place of the upper surface of the lowermost floor; and

c. The vertical boundaries of the unit shall be the interior surface of the perimeter walls of the building bounding a unit.

3.4 Description of the Common Areas and Facilities

Except as otherwise provided in the Declaration, the common areas and facilities shall consist of the areas and facilities described in the definitions and in the Record of Survey Map (Exhibit A) and constitute in general all parts of the Property except the units. Without limiting the generality of the foregoing, the common areas and facilities shall include the following, whether located within the bounds of a unit or not:

a. The land within the Tidewater Villiage Condominium;

b. All structural parts of the buildings, including, without limitation, foundations, perimeter and bearing walls, joists, beams, supports, ceilings and roofs;

c. Driveways, parking spaces, entryways, porches, doorsteps,

patios, balconies, terraces, landscaped and planted areas, sidewalks, fences, walls, common storage areas, exterior lighting and roadways located within the Property;

d. Any utility pipe or line or system servicing more than a single unit, and all ducts, wires, conduits, and other accessories used therewith;

e. The limited common areas and facilities herein described; and

f. All repairs and replacements of any of the foregoing.

3.5 Description of the Limited Common Areas and Facilities

The limited common areas and facilities appurtenant to each of the eighteen (18) units shall include a patio area located at the rear of each unit facing the common landscaped areas, a doorstep and/or porch located at the front of each unit, and a driveway leading from the common roadway to the garage of each unit. The limited common areas and facilities are more fully described in the Record of Survey Map (Exhibit A).

4. Unit Number and Percentages of Undivided Interest in Common Areas and Facilities

4.1 Changes In Percentage Interests.

The unit number and maximum percentage of undivided interest in the common areas and facilities appurtenant to each unit and its owner for all purposes, including voting, is set forth in Exhibit B. Such maximum interest shall be subject to diminution, to accommodate expansion or conversion under the provisions of paragraph 6. Except as provided in paragraph 6, the percentage of undivided interest in the common areas

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and facilities appurtenant to any unit shall not be changed except with the unanimous consent of all of the unit owners in the Tidewater Villiage Condominium expressed in an amendment to this Declaration duly executed by all such owners and recorded.

4.2 Method of Computing Percentage Interests.

Such percentages have been computed by dividing the square footage of each unit by the total square footage of all of the units in the Tidewater Villiage Condominium. The square footage area in garages has been included in computing the total square feet of floor space in each of the units.

5. Purpose of Property and Use Restrictions Thereon

5.1 Purpose of Property.

The purpose of the Tidewater Villiage Condominium is to provide residential housing and associated facilities for unit owners, their respective families, tenants, guests, and servants. Each unit in the Property shall be restricted exclusively to residential purposes and single family use.

5.2 The units and common areas and facilities of the Tidewater Villiage Condominium shall be occupied and used pursuant to this Declaration and the Bylaws as follows:

5.2.1 No commercial business shall be permitted within the Property.

5.2.2 There shall be no obstruction of the common areas and facilities. Except in the case of designated storage areas, nothing

shall be stored in the common areas and facilities without the prior written consent of the Management Committee.

5.2.3 Nothing shall be done or kept in any unit or in the general or limited common areas and facilities which will increase the rate of insurance on the general or limited common areas and facilities without the prior written consent of the Management Committee. No owner shall permit anything to be done or kept in his unit or in the general or limited common areas and facilities which will result in the cancellation of insurance of any unit or any part of the general or limited common areas and facilities, or which would be in violation of any law. No waste will be committed of the general common areas and facilities or limited common areas and facilities.

5.2.4 No sign of any kind shall be displayed to the public view or from any unit or from the general or limited common areas and facilities without the prior written consent of the Management Committee.

5.2.5 No animals, livestock or poultry of any kind shall be raised, bred or kept in any unit or in the general or limited common areas and facilities; except that household pets may be kept or housed in units when expressly permitted in writing by the Management Committee. Each owner who desires to keep a pet in his unit shall apply in writing to the Management Committee for permission to keep such pet. In no event shall any pet be permitted in any portions of the common areas and facilities unless carried or on a leash. Each owner who keeps a pet in a unit shall indemnify and hold all other owners harmless against any loss or liability of any kind or character whatsoever arising from or as

a result of having such pet in the Tidewater Villiage Condominium. If a pet disturbs other owners by barking or biting or in other ways becoming obnoxious, the Management Committee will give notice to the owner of such pet to cause such annoyance to be discontinued and if such annoyance is not discontinued and corrected, the Management Committee may revoke its permission to keep the pet in the Tidewater Villiage Condominium and the pet shall be removed from the Property.

5.2.6 No noxious, dangerous or offensive activity shall be carried on in any unit or in the general or limited common areas and facilities, nor shall anything be done therein which may be or become an annoyance or nuisance to other owners.

5.2.7 Nothing shall be altered or constructed in or removed from the general or limited common areas and facilities, except upon the prior written consent of the Management Committee. All requests for permission to alter, construct in or remove any portion of the common areas and facilities shall be made in writing to the Management Committee and shall include plans and specifications detailing the nature and extent of such alteration, construction or removal.

5.2.8 No recreational vehicle (motor homes, campers, trailers, boats, or similar items) shall be parked on any portion of the general or limited common areas and facilities not specifically designated for the parking and storage of such vehicles except for temporary parking.

5.2.9 The Management Committee is authorized to adopt rules for the use of the general or limited common areas and facilities, and to prescribe penalties for any violation thereof, and shall furnish such

rules in writing to the owners, who shall be bound thereby.

5.2.10 None of the rights and obligations of the owners created herein, or by the deeds conveying the condominiums, shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of an owner or owners if said encroachment occurred due to the willful conduct of said owner or owners.

6. Expandable Condominium

The Declarant hereof expressly reserves the option and right to expand the Tidewater Villiage Condominium pursuant to Section 57-8-13.6 of the Act and subject to the provisions of this Article:

6.1 Consent of Owners or Mortgagees Nor Required.

The consent of unit owners of the Project or mortgagees shall not be required for such expansion and the Declarant may proceed with such expansion at its sole option;

6.2 Expiration of Right to Expand.

This option to expand the condominium project shall expire seven (7) years after the recording of this Declaration; however, the Declarant may, at any time prior to the expiration of such period, terminate its option to expand by recording among the land records wherein this Declaration is recorded an executed and notarized document terminating this option;

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6.3 Description of Additional Land.

The additional land which may, at the option of Declarant, be made part of the expandable condominium, is located in Salt Lake County, State of Utah, and is more particularly described as follows, to-wit:

Beginning at a point which is N 89 degrees 57'30"W 358.62 feet and N 0 degrees 07'E 677.901 feet and N 0 degrees 56'30"E 1041.06 feet and S 87 degrees 24'E 710.50 feet and N 0 degrees 10'W 43.50 feet and N 37 degrees 12'E 26.63 feet from the West Quarter Corner of Section 9, Township 2 South, Range 1 East, Salt Lake Base & Meridian, and running thence N 81 degrees 19'E 226.99 feet; thence Southeasterly along the East line of Yorktown Drive 140 feet more or less to the West line of the Salt Lake County Tract; thence N 2 degrees 23'W 227.89 feet to the centerline of Big Cottonwood Creek; thence N 38 degrees 15'09"W along said centerline 160.79 feet; thence N 47 degrees 22'W along said centerline 10.24 feet; thence S 68 degrees 50'15"W 156.06 feet; thence N 35 degrees 40'20"W 64.42 feet; thence N 30 degrees 42'W 72.0 feet; thence N 24 degrees 42'W 21.34 feet to the Southerly Right of Way line of the Murray-Holladay Road; thence S 68 degrees 50'15"W along said Right of Way 175.78 feet; thence Southwesterly along said Right of Way on a curve to the left (the radius point of which is S 21 degrees 09'45"E 911.44 feet) a distance of 190.89 feet; thence S 56 degrees 50'15"W along said Right of Way 42.37 feet to a point which is 108.10 feet North and 470.55 feet East of the Salt Lake County Monument at the intersection of Murray-Holladay Road and 1300 East Street; thence S 33 degrees 09'45"E 106.94 feet; thence S 13 degrees 40'E 95.48 feet; thence Southeasterly on a curve to the left (the radius point of which is N 76 degrees 20'E 15.00 feet) a distance of 12.62 feet; thence Southeasterly on a curve to the right (the radius point of which is S 28 degrees 08'37"W 45.0 feet) a distance of 59.68 feet; thence S 75 degrees 52'15"E 145.28 feet to the point of beginning.

6.4 Declarant's Right to Add All or Portions of Additional Land.

The Declarant need not add all or any portion of the additional land to the condominium; however, the Declarant may, at its sole discretion and without limitation, add all or any portion or portions of the additional land to the Property and may do so at different times.

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6.5 Location of Improvements.

Declarant makes no assurances as to the locations of any improvements that may be made on any portions of the additional land added to the Tidewater Villiage Condominium.

6.6 Maximum Number of Units.

The improvements to be placed on the additional land shall contain no more than 41 residential condominium units; and no more than nine (9) units per acre may be created on any portions of the additional land hereafter added to the Tidewater Villiage Condominium.

6.7 No Assurance of Compatibility With Structures in Phase One.

Although Declarant intends to erect structures on any portion of the additional land added to the Tidewater Villiage Condominium that will be compatible with the structures on the land originally within the condominium project, Declarant makes no assurances in those regards. As reflected in the design of units in Phase One, Declarant intends to use a variety of condominium designs with different interior floor plans, exterior elevations, and exterior building materials throughout the Tidewater Villiage Condominium. Declarant hereby reserves the right to select the design and configuration of any improvements erected on any portion of the additional land added to the Tidewater Villiage Condominium that in the judgement of the Declarant may be required to achieve the best development of the Property.

6.8 Other Improvements.

Other improvements to be placed on the additional land shall be limited to parking, recreational, and service facilities.

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6.9 Units Not Identical to Phase One Units.

Although Declarant intends to create units in the improvements on the additional land that will be compatible with units in phase 1 of the Tidewater Villiage Condominium, Declarant makes no assurances as to whether units that may be created in the improvements on the additional land will be compatible with or identical to units in Phase 1.

6.10 Limited Common Areas.

The Declarant reserves the right, in its sole discretion and without limitation, to create limited common areas and facilities within a portion of the additional land and to designate common areas and facilities therein which may subsequently be assigned as limited common areas and facilities for the purpose of making parking spaces, patios, porches, and such other traditional types of limited common areas and facilities as the Declarant may see fit.

6.11 Reserved for Residential Use.

Any portion of the additional land which is hereafter added to the Tidewater Villiage Condominium and any units created thereon shall be restricted exclusively to residential purposes and single family use. None of the aggregate land and floor area of all the units that may be created on any portion of the additional land which is hereafter added to the Tidewater Villiage Condominium shall be used for any purpose other than for residential purposes.

7. Management Offices, Model Units and Sales Office

7.1 Management Offices, Model Units and Sales Offices in Phase One.

Declarant and Declarant's duly authorized agents, representatives and employees shall have the right to use any units owned by Declarant as management offices, model units and sales offices and to use such management offices, model units and sales offices during the period that units in the present or subsequent phases remain unsold. No more than one management office, two model units and one sales office will be constructed and maintained by Declarant in units in Phase 1. Declarant reserves the right to relocate the same from time to time within the Property.

7.2 Management Offices, Model Units and Sales Offices in Subsequent Phases.

Declarant and its agents further reserve the right to construct and maintain management offices, model units and sales offices in subsequent phases of the project, and to determine at Declarant's sole option the size, number, and location of such management offices, model units and sales offices.

7.3 Advertising Signs.

Declarant further reserves the right to maintain advertising signs on the Property and on any additional land that may be added thereto and to place the same in any location, and to relocate, replace, and remove the same at the sole discretion of Declarant.

8. Reservation of Easement to Facilitate Creation of Improvements on Land Within Project and on Additional and Convertible Land

Declarant, and persons it may select, shall have the right of ingress and egress over, upon, and across the general and limited common

areas and facilities, or any additional land or convertible land which may hereafter be added to the Tidewater Villiage Condominium in accordance with the provisions of paragraph 6 and the right to store materials thereon and make such other use thereof as may be reasonably necessary incident to construction, development, and sales of the condominiums and operation of the units and common areas and facilities in connection with the Tidewater Villiage Condominium and the overall development of which the Property is a part. Declarant and its agent shall retain the right to use the sales office and model units and the general and limited common areas and facilities in connection therewith during the period of development and sale of the Tidewater Villiage Condominium, including any additional phase of development.

9. Service of Process

G. Thomas Dipo, whose address is 1348 East Murray-Holladay Road, Salt Lake City, Utah 84117, is the person to receive service of process in cases authorized by the Act. The Management Committee shall, however, have the right to appoint a successor substitute process agent. Such successor or substitute agent and his address shall be specified by an appropriate instrument filed in the office of the County Recorder of Salt Lake County, State of Utah. Provided, however, that the agent for service of process named in the Declaration relating to the Phase most recently added to the Property shall automatically constitute such agent for the Property, and shall automatically replace any agent previously named by the Management Committee or any agent designated in any enabling declaration relating to a previously added phase.

10. Management Committee

10.1 The governing board of the Tidewater Villiage Condominium Owners Association, a nonprofit corporation, shall for and in behalf of the Association manage and maintain the Property and conduct the affairs of the Association pursuant to the provisions of the Act, the Utah Nonprofit Corporation and Cooperative Association Act, this Declaration, the Articles, the Bylaws, and all rules and regulations made pursuant thereto.

10.2 Declarant Control of Management Committee and Association.

Until the first to occur of the following: (a) a date six (6) years from the date this Declaration is recorded, or (b) after units to which three-fourths (3/4) of the undivided interest in the common areas and facilities appertain have been conveyed, or after all additional land has been added to the Property, whichever last occurs; the Declarant shall have the right to appoint and remove some or all of the members of the Management Committee or some or all of the officers of the Association, or to exercise powers and responsibilities otherwise assigned by this Declaration, the Articles, the Bylaws, and the Act to the Association, its officers, or the Management Committee.

11. Maintenance, Replacement, and Repair

11.1 Maintenance, Repair, and Replacement of Common Areas.

The maintenance, repair, and replacement, of those elements that must be replaced on a periodic basis and repair of the common areas and facilities shall be responsibility of the Association and the cost

thereof shall be a common expense. The Association shall replace and repair storage areas, atriums, and other limited common areas. The Management Committee, acting for and in behalf of the Association, shall also maintain, replace, and repair all conduits, ducts, plumbing and wiring, and other facilities for the furnishing of heat, gas, light, power, air conditioning, water and sewer contained in the portions of the units that service part or parts of the Property other than the unit in which they are contained. All incidental damages caused to a unit by the maintenance, replacement and repair of the common areas and facilities or utility services shall be repaired promptly at the expense of the Association.

11.2 Maintenance, Replacement, and Repair of Units.

Each owner shall at his own cost and expense maintain, repair, paint, repaint, tile, paper or otherwise refinish and decorate the interior surfaces of the walls, ceilings, floors, windows and doors forming the boundaries of his unit and all walls, ceilings, floors, windows and doors within such boundaries. In addition to decorating and keeping the interior of his unit in good repair and in a clean and sanitary condition, he shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water heater, heating equipment, air conditioner, lighting fixtures, refrigerator, dishwasher, disposal equipment, range, or other appliances or fixtures that may be in, connected with, or service only his unit. Each unit shall be maintained 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 unit. Each unit owner

shall keep clean and in a sanitary condition his storage areas, balconies, patios, and other limited common areas, if any.

11.3 Access for Repair of Common Areas.

Some of the common areas and facilities are or may be located within the units or may be conveniently accessible only through the units. The owners of the other units shall have the irrevocable right, to be exercised by the Management Committee, as its agent, to have access to each unit and to all common areas and facilities from time to time during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the common areas and facilities located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the common areas and facilities or to another unit or units. The Management Committee shall also have such rights independent of the agency relationship. Damage to the interior of any part of a unit or units resulting from the maintenance, repair, emergency repair, or replacement of any of the common areas and facilities or as a result of emergency repairs within another unit at the instance of the Management Committee or of unit owners; provided, that if such damage is the result of negligence of the owner of a unit, then such owner shall be financially responsible for all such damage. Such damage shall be repaired and the Property shall be restored substantially to the same condition as existed prior to damage. Amounts owing by owners pursuant hereto shall be collected by the Management Committee by assessment.

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11.4 Easement to Management.

The Management Committee shall have nonexclusive easements to make such use of the common areas and facilities as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration.

11.5 Easement for Utility Services.

There is hereby created a blanket easement upon, across, over and under the Property above described in paragraph 3.1 for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to, water, sewers, gas, telephones, electricity, and other utility services.

12. Destruction or Damage

12.1 Less Than 2/3 of Property Destroyed.

In case of fire or any other disaster which causes damage or destruction to all or part of the Property, the Management Committee, with the help of an independent appraisal, shall determine the percentage of the Property that was destroyed or substantially damaged. If less than two-thirds (2/3) of the total Property was destroyed or substantially damaged, the Management Committee shall arrange for the prompt repair and restoration of said Property using the proceeds of insurance on the same for that purpose, and the unit owners shall be liable for assessment for any deficiency, if any, in proportion to their respective percentages of undivided interest in the common areas and facilities. Reconstruction of the Property shall mean the restoring of the building or buildings to substantially the same condition they were in prior to the damage or

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destruction, with each unit and the common areas and facilities having the same vertical and horizontal boundaries as before, unless the destruction or damage is by reason of eminent domain, in which event the provisions of paragraph 15 hereof shall apply.

12.2 Greater Than 2/3 of Property Destroyed.

If two-thirds (2/3) or more of the total Property is destroyed or substantially damaged, the Management Committee shall, within thirty (30) days after such destruction or damage, call a special meeting of the unit owners for the purpose of deciding whether or not the Property shall be repaired and restored. If at least three-fourths (3/4) of the unit owners, in person or by proxy, vote to repair or restore the building or buildings, the Management Committee shall promptly arrange for the reconstruction of the same, using the proceeds of insurance on the buildings affected for that purpose, and the unit owners shall be liable for assessment for any deficiency, if any, in proportion to their respective percentage of undivided interest in the common areas and facilities. If the destruction or damage is by reason of eminent domain, the provisions of paragraph 15 hereof shall apply. However, in the event at least two-thirds (2/3) of the total Property is destroyed or substantially damaged, and less than three-fourths (3/4) of the unit owners vote to make provision for reconstruction, the Management Committee shall record, with the County Recorder, a notice setting forth such facts; and upon the recording of such notice: (i) the Property shall be deemed to be owned in common by the unit owners; (ii) the undivided interest in the property owned in common which shall appertain to each unit owner shall

be the percentage of undivided interest previously owned by such owner in the common areas and facilities; (iii) any liens affecting any of the units shall be deemed to be transferred in accordance with the existing priorities to the undivided interest of the unit owner in the Property; and (iv) the Property shall be subject to an action for partition at the suit of any unit owner, in which event the net proceeds of sale, together with the net proceeds of the insurance of the Property, shall be considered as one fund and shall be divided among all unit owners in a percentage equal to the percentage of undivided interest owned by each owner in the Property, after first paying out of the respective shares of the unit owners, to the extent sufficient for such purposes, all sums necessary to satisfy liens on the undivided interest in the Property owned by each unit owner.

12.3 Definition of "Disaster," "Destruction," "Substantial Damage".

For purposes of this paragraph 12, the terms "disaster," "destruction," or "substantial damage" shall mean and include a temporary or permanent taking, injury or destruction of all or part of the common areas and facilities or one or more units or portions thereof by the exercise of the power of or power in the nature of eminent domain or by an action or deed in lieu of condemnation.

13. Insurance

13.1 Contents of Insurance Coverage.

The Association shall obtain and maintain at all times insurance coverage to carry out the purposes of paragraph 12 of the Declaration. Such coverage shall be of the type and kind as provided herein and

include insurance for such other risks, of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to other properties similar to the Property in construction, design, and use. The Association shall obtain insurance with the following provisions or endorsements:

13.1.1 Exclusive authority to adjust losses shall be vested in the Management Committee;

13.1.2 The insurance coverage shall not be brought into contribution with insurance purchased by individual unit owners or their respective mortgagees;

13.1.3 Each unit owner may obtain additional insurance covering his real property interest at his own expense;

13.1.4 The insurer waives its right of subrogation as to any claims against the Association, the Management Committee, the manager, the unit owners, and their respective servants, agents, and guests;

13.1.5 The insurance coverage cannot be cancelled, invalidated or suspended because of the conduct of any one or more individual unit owners or their respective lessees, employees, agents, contractors, or guests;

13.1.6 The insurance coverage cannot be cancelled, invalidated or suspended because of the conduct of any officer employee, agent or contractor of the Association, Management Committee, or manager, without prior demand in writing that the Association cure the defect and then only if the defect is not cured within fifteen (15) days;

13.1.7 All hazard insurance policies shall be written by a

hazard insurance carrier which has a financial rating by Best's Insurance Reports of Class VI or better. Such hazard insurance carrier shall be specifically licensed or authorized by law to transact business within the State of Utah.

13.1.8 Each policy of insurance obtained by the Association shall provide: a standard mortgagee clause commonly accepted by private institutional mortgage investors in the area in which the Property is located. Such mortgagee clause shall provide that the insurance carrier shall notify the first mortgagee at least ten (10) days in advance of the effective date of any ^{reduction in or} cancellation of any policy or policies.

13.1.9 The Association shall not obtain or maintain a policy or policies of insurance where:

a. Under the terms of the carrier's charter, bylaws or policy, contributions or assessments may be made against one or more of the unit owners, any first mortgagee or first mortgagees, or the Federal Home Loan Mortgage Corporation, hereinafter FHLMC, or FHLMC's designee; or

b. By the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members; or

c. The policy includes any limiting clauses (other than insurance conditions) which could prevent FHLMC or one or more of the unit owners from collecting insurance proceeds.

13.2 Multi-peril Fire and Casualty Insurance.

The Association shall maintain a multi-peril type policy covering the entire Tidewater Villiage Condominium with the provisions and endorsements set forth in paragraph 13.1 above, providing as a minimum fire and extended coverage and all other coverage in the kinds and amounts common required by private institutional mortgage investors for projects similar in construction, location and use on a replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based upon replacement cost). Each such policy shall contain the standard mortgage clause which must:

a. Be endorsed to provide that any proceeds shall be paid to the Association for the use and benefit of mortgagees as their interests may appear; and

b. Provide that the insurance carrier shall notify the first mortgagee (or trustee), Prudential Federal Savings and Loan Association, at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy.

Each such policy shall state that the insured is the Tidewater Villiage Condominium Owners Association for the use and benefit of the individual owners. If such policy contains a fall of building clause, such clause must be waived. The limits and coverage of said insurance shall be reviewed at least annually by the Management Committee and shall include an appraisal of the Property by a qualified representative of the insurance company writing the master policy on the Property. The Association shall, upon request, furnish a letter wherein the

Association agrees to notify FHLMC (c/o the First Mortgagee) whenever:

- a. Damage to a condominium unit covered by a mortgage purchased in whole or in part by FHLMC exceeds \$1,000, or
- b. Damage to common elements and related facilities exceeds \$10,000.

13.3 Comprehensive Public Liability Insurance.

The Association shall obtain a comprehensive policy of public liability insurance insuring the Association, the Management Committee, the manager, and the unit owners against any liability incident to the ownership, use, or operation of the common areas and facilities, commercial spaces, if any, and public ways in the Property or of any unit which may arise among themselves, to the public, or to any invitees, or tenants of the Property, or of the unit owners. Limits of liability under such insurance shall not be less than One Million Dollars (\$1,000,000.00) per occurrence, for personal injury and/or property damage. Such insurance policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a unit owner because of negligent acts of the Association or other unit owners. The scope of coverage must include all other coverage in the types and amounts required by private institutional mortgage investors for projects similar in location, construction and use. The limits in coverage of said liability policy or policies shall be reviewed at least annually by the Management Committee, including an evaluation of the adequacy of the policy by a qualified representative of the insurance

company writing the master policy on the Property, and shall be increased at the discretion of the Management Committee. Said policy or policies shall be issued on a comprehensive liability basis and, if possible, shall provide cross-liability endorsements for possible claims for any one or more or group of insureds against any one or more or group of insureds, without prejudice to the right of a named insured under the policies to maintain an action against another named insured.

13.4 Fidelity Coverage.

The Association shall maintain fidelity coverage against dishonest acts on the part of the Management Committee Members, managers, trustees, employees or volunteers responsible for handling funds belonging to or administered by the Association. The fidelity bond or insurance must name the Association as the named insured and shall be written in an amount sufficient to provide protection which in no event shall be less than one and one-half times the insured's estimated annual operating expenses and reserves. In connection with such coverage an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

13.5 Owners Duty to Notify Management Committee of Improvements.

Each unit owner shall be required to notify the Management Committee of, and shall be liable for, any increased insurance premium for insurance maintained by the Management Committee on all improvements made by the unit owner to his unit, the value of which is in excess of One Thousand Dollars (\$1,000). Each unit owner shall bear the risk of loss for all improvements made to his unit that were not the subject of notice to the Management Committee.

13.6 Copy of Individual Unit Policy to Management Committee.

Any unit owner who obtains individual insurance coverage covering any portion of the Property, other than personal property belonging to such unit owner, shall be required to file a copy of such individual policy or policies with the Management Committee within thirty (30) days after obtaining such insurance coverage.

13.7 Individual Policies Not to Decrease Coverage of Master Policy.

No unit owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount that the Management Committee, on behalf of all of the unit owners, may realize under any insurance policy that the Management Committee may have in force covering the Property or any part thereof at any time.

13.8 Flood Insurance.

According to the Department of Housing and Urban Development Map Number 4912-0008-A dated August 30, 1977, the Property is not located in an area identified by the Department of Housing and Urban Development as an area having special flood hazards. In the event that at some future time the Property should be declared to be in such a flood area, a blanket policy of flood insurance on the Property shall be maintained in the amount of the aggregate of the outstanding principal balances of the mortgage loans on the units comprising the Property or the maximum limit of coverage available under the National Flood Insurance Act of 1968, as amended, whichever is less. The name of the insured under each required policy must be in form and substance as that required by the Federal Home Loan Mortgage Corporation at any given time.

13.9 Notwithstanding any provision in this Declaration, the Articles, and the Bylaws to the contrary, no provision of this paragraph 13 shall be amended without the consent of all first mortgagees.

14. Termination

14.1 Where 2/3 of Property is Destroyed.

In the event two-thirds (2/3) of the property is destroyed or substantially damaged, and if at least three-fourth (3/4) of the unit owners vote not to reconstruct the buildings, the Property shall be removed from the provisions of the Act without further agreement thirty-one (31) days after such destruction or damage.

14.2 By Vote of Mortgagees or Owners

If at least 75 percent of the first mortgagees (based upon one vote for each first mortgage owned) or the unit owners in person or by proxy, vote to remove the Property from the provisions of the Act, the Property shall be removed from the provisions of the Act by an instrument duly recorded to that effect, provided that the holders of all liens affecting any of the units consent or agree by instruments duly recorded, that their liens be transferred to the percentage of the undivided interest of the unit owners in the Property.

14.3 Tenants in Common After Termination.

After removal of the Property from the Act, the unit owners shall own the Property and all assets of the association as tenants in common and the respective mortgagees and lienors shall have mortgages and liens upon the respective undivided interests of the unit owners. Such undivided interests of the unit owners shall be the same as the percentage

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of undivided interest in the common areas and facilities appurtenant to the owners' units prior to removal from the Act.

14.4 This paragraph 14 cannot be amended without consent of all unit owners and all record owners or mortgagees on units.

15. Eminent Domain

15.1 Management Committee and Owners Entitled to Notice of Action.

Whenever any proceeding is instituted that could result in the temporary or permanent taking, injury or destruction of all or part of the common areas and facilities of one or more units or portions thereof by the exercise of the power of or power in the nature of eminent domain or by an action or deed in lieu of condemnation, the Management Committee and each unit owner shall be entitled to notice thereof and the Management Committee shall and the unit owners at their respective expense may participate in the proceedings incident thereto.

15.2 Taking of Common Areas and Facilities.

With respect to common areas and facilities, any damages or awards shall be determined for such taking, injury or destruction as a whole and not for each unit owner's interest therein. After such determination, each unit owner shall be entitled to a share in the damages in the same proportion as his percentage of undivided interest in the common areas and facilities. This provision does not prohibit a majority of unit owners from authorizing the Management Committee to use such damages or awards for replacing or restoring the common areas and facilities so taken on the remaining land, or on other acquired land, provided that this Declaration and Record of Survey Map are duly amended.

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15.3 Taking of Units.

With respect to one or more units or portions thereof, the damages or awards for such taking shall be deemed to be proceeds from insurance on account of damage or destruction, pursuant to paragraph 12 hereof and shall be deposited with the Management Committee as trustee. Even though the damage or awards may be payable to one or more unit owners, the unit owners shall deposit the damages or awards with the Management Committee as trustee, and in the event of failure to do so, at the option of the Management Committee, either a special assessment shall be made against a defaulting unit owner in his unit in the amount of this award or the amount of such award shall be set off against the sums hereafter made payable to such unit owner. The proceeds of the damages or awards shall be distributed or used in a manner and the unit owners of affected units shall have the rights provided in paragraph 12 for insurance proceeds provided the property is removed from the provisions of the Act. If the property is not removed from the provisions of the Act, and one or more units are taken, in whole or in part, the taking shall have the following effects:

15.3.1 Partial Taking - Unit Made Tenantable.

If the taking reduces the size of a unit and the remaining portion of the unit may be made tenantable, the unit shall be made tenantable. If the cost of such work exceeds the amount of the award, the additional funds required shall be assessed against the owner of the unit. The balance of the award, if any, shall be distributed to the unit to the extent of the unpaid balance of its mortgage and the excess,

if any, shall be distributed to the unit owner. If there is a balance of the award distributed to the unit owner or a mortgagee, the unit owner's percentage of undivided interest in the common areas and facilities shall be equitably reduced. This shall be done by reducing such interest in the proportion by which the floor area of the unit is reduced by the taking, and then recomputing the percentages of undivided interests of all unit owners in the common areas and facilities.

15.3.2 Unit Untenantable.

If the taking destroys or so reduces the size of a unit that it cannot be made tenantable, the award shall be paid to the mortgagee of the unit to the extent of the unpaid balance of its mortgage and the excess, if any, shall become a part of the common areas and facilities and shall be placed in condition for use by all unit owners in the manner approved by the Management Committee. If the cost of such work shall exceed the balance of the fund from the award for the taking, such work shall be done only if approved by a majority of the unit owners. The percentages of undivided interests in the common areas and facilities appurtenant to the units that continue as part of the Property shall be equitably adjusted to distribute the ownership of the common areas and facilities among the reduced number of unit owners.

15.3.3 Amendment to Declaration and Record of Survey Map.

Changes in units, in the common areas and facilities, and in the ownership of the common areas and facilities that are affected by the taking referred to in this paragraph 15 shall be evidenced by an amendment to this Declaration and the Record of Survey Map, which must be approved by all unit owners.

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16. Mortgagee Protection

Notwithstanding anything to the contrary contained in the Declaration, the Articles, or the Bylaws:

16.1 Common expense assessments shall include an adequate reserve fund for maintenance, repairs and replacement of those common areas and facilities that must be replaced on a periodic basis, and shall be payable in regular installments rather than by special assessments.

16.2 Any proposal or plan pursuant to which additional land or added phases shall be added to the Tidewater Villiage Condominium shall comply with the following limitations:

16.2.1 Condominium unit owner's undivided interest in the common areas and facilities must be stated in this Declaration; and the conditions whereby any change in such percentage of undivided interest in common areas and facilities may take place are fully described in this Declaration, together with a description of the real property which will become subject to the condominium project if such alternative percentage interest becomes effective; and

16.2.2 No change in the percentage interests in the common areas and facilities may be affected pursuant to such phasing or add-on plan more than seven (7) years after the Declaration becomes effective.

16.3 No provision of this Declaration, the Articles or the Bylaws shall give a unit owner, or any other party, priority over any rights of the first mortgagee of the condominium unit pursuant to its mortgage or otherwise in the case of a distribution to such unit owner of insurance proceeds or condemnation awards for losses to or a taking of

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condominium units and/or common areas and facilities.

16.4 Any "right of first refusal" that may hereafter be added to this Declaration, the Articles, or the Bylaws shall not impair the rights of a first mortgagee to:

- a. Foreclose or take title to a condominium unit pursuant to the remedies provided in the mortgage, or
- b. Accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgagor, or
- c. Interfere with a subsequent sale or lease of a unit so acquired by the mortgagee.

16.5 Any agreement for professional management of the condominium project, or any other contract providing for services of the Declarant, may not exceed three (3) years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice.

16.7 With the exception of a lender in possession of a unit following a default in a first mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no unit owner shall be permitted to lease his unit for transient or hotel purposes. No unit owner may lease less than the entire unit. Any lease agreement shall provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration, the Articles and Bylaws and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be in writing.

16.7 Any first mortgagee who obtains title to a condominium unit

with the intended use of the common areas and facilities by the condominium project shall not be deemed a transfer within the meaning of this clause);

e. Use hazard insurance proceeds for losses to the Property (whether to units or to common areas and facilities) for other than the repair, replacement or reconstruction of such condominium property, except as provided by the Act in case of substantial loss to the units and/or common areas and facilities of the condominium project.

16.10 Common areas and facilities, and all amenities (such as parking, recreation and service areas) shall be part of the Tidewater Villiage Condominium and shall be fully installed, completed, and in operation for use by the condominium unit owners prior to the sale and conveyance of the last unit in the condominium project.

16.11 A mortgagee, trustee, or beneficiary under a deed of trust who has acquired title to a unit in the Tidewater Villiage Condominium pursuant to any remedy under the mortgage or deed of trust, or any proceeding or procedure in lieu thereof, shall thereby become a member of the Tidewater Villiage Condominium Owners Association.

16.12 No condominium unit owner, or any other party shall have priority over any rights of a first mortgagee of a condominium unit pursuant to its mortgage or otherwise in the case of a distribution to such unit owner of insurance proceeds or condemnation awards for losses to or a taking of condominium units and/or common areas and facilities. All first mortgagees shall be entitled to receive such insurance proceeds and awards for losses to or a taking of condominium units and/or

pursuant to the remedies provided in the mortgage or foreclosure or deed in lieu of foreclosure of the mortgage will not be liable for such unit's unpaid dues or charges which accrue prior to the acquisition of title to such unit by the mortgagee.

16.8 A first mortgagee, upon request, will be entitled to written notification from the Association of any default in the performance by the mortgagor-unit owner of any obligation under this Declaration, the Articles, or the Bylaws which is not cured within sixty (60) days.

16.9 Unless at least two-thirds (2/3) of the first mortgagees (based upon one vote for each first mortgage owned), or owners (other than Declarant) of the individual condominium units have given their prior written approval, the Association shall not be entitled to:

- a. By act or omission, seek to abandon or terminate the condominium project;
- b. Change the prorata interest or obligations of any individual condominium unit for the purpose of: (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the prorata share of ownership of each condominium unit in the common areas and facilities, except as necessary to allow for the phasing or add-ons as provided in this Declaration;
- c. Partition or subdivide any condominium unit;
- d. By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the common elements. (The granting of easements for public utilities or for other public purposes consistent

common areas and facilities on a first priority basis, as provided in the mortgage instruments.

16.13 No provision of this paragraph 16 shall be amended without the consent of all first mortgagees.

16.14 The holders of first mortgages (or trust deeds) shall have the right to examine the books and records of the Property.

16.15 Whenever there is a change in ownership of a unit, the Management Committee shall require that the new unit owner furnish the Management Committee with the name of the holder of any first mortgage (or trust deed) affecting such unit. The Management Committee or Manager shall maintain a current roster of unit owners and of the holders of first mortgages (or trust deeds) affecting units in the Property.

16.16 At least eighty percent (80%) of the units sold in the Tidewater Villiage Condominium shall be sold to individuals as their primary year-round residence.

17. Conveyances, Easements

17.1 Unit Identifying Number.

Every deed, lease, mortgage or other instrument may describe a unit by its identifying number set forth in Exhibit C and in the Record of Survey Map, Exhibit A. Every such description shall be deemed good and sufficient for all purposes and shall be deemed to convey, transfer, encumber or otherwise effect the unit owner's corresponding percentage of undivided ownership in the common areas and facilities, as a tenant in common, as set forth in Exhibit C, even though the same is not exactly mentioned or described.

17.2 Easements Excepted and Reserved.

Every deed, lease, mortgage or other similar instrument shall be deemed to:

17.2.1 Except and reserve with respect to a unit: (i) any portion of the common areas and facilities lying within said unit; (ii) easements through said unit, appurtenant to the common areas and facilities and all other units, for support and repair of the common areas and facilities and all other units; and (iii) easements, appurtenant to the common areas and facilities, for encroachment upon the air space of said unit by those portions of the common areas and facilities located within said unit.

17.2.2 Include with respect to a unit nonexclusive easements for ingress and support of said unit through the common areas and facilities, for the repair of said unit through all other units and through the common areas and facilities.

17.2.3 Except and reserve, with respect to the undivided percentage interest in the common areas and facilities, nonexclusive easements appurtenant to all units for ingress, egress, support and repair.

17.2.4 Include, with respect to the undivided percentage interest in the common areas and facilities, nonexclusive easements through each unit for support and repair of the common areas and facilities and nonexclusive easements for encroachments upon the air space of all of the units by and for the portions of the common areas and facilities lying within the units.

17.2.5 If any part of the general or limited common areas or facilities encroaches or shall hereafter encroach upon a unit or units, an easements for such encroachment and for the maintenance for the same shall and does exist. If any part of a unit encroaches or shall hereafter encroach upon the general or limited common areas, or upon an adjoining unit or units, an easement for such encroachment and for the maintenance shall and does exist. Such encroachments shall not be considered to be encumbrances either to the common areas or the units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of the building(s) on the Property, by error in the Record of Survey Map, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Tidewater Villiage Condominium or any part thereof.

18. Assessments

18.1 Agreement to Pay Assessments.

Each owner of a unit by the acceptance of a deed or contract therefor, whether or not it be so expressed in the deed or contract, shall be deemed to covenant and agree with each other and with the Management Committee to pay his proportionate share of the common expenses and special assessments for capital improvements and other matters in such amounts and at such times as determined by the Management Committee in accordance with the terms of the Bylaws, Exhibit D.

18.2 Lien for Unpaid Assessments.

All sums assessed to any unit together with interest thereon, shall

be secured by a lien on such unit in favor of the Management Committee. Such lien shall be superior to all other liens and encumbrances, except as provided for in the Bylaws, Exhibit D, and foreclosure and collection shall be as therein provided for.

19. Amendment

19.1 Amendment by Vote of Owners.

Except as provided in paragraph 19.2 below, in paragraph 4, and except as prohibited by the Act, the provisions of this Declaration may be amended only by an instrument in writing signed and acknowledged by owners who own undivided percentage interests of not less than seventy-five percent (75%) of the Tidewater Villiage Condominium Project, which amendment shall be effective upon recording.

19.2 Amendment to Facilitate Expansion.

Declarant is hereby vested with the right to amend and supplement this Declaration and the Record of Survey Map as may be reasonably necessary or desirable to facilitate the practical, technical, administrative, or functional integration of any subsequent phase, or the addition of additional land or conversion of any convertible land into the Tidewater Villiage Condominium Project. As each additional phase is added to the Tidewater Villiage Condominium Project, the supplemental Declaration and supplemental condominium Record of Survey Map associated with such phase shall, in the manner detailed in paragraph 6 of this Declaration, supplement and amend all such instruments relating to all phases previously included in the Tidewater Villiage Condominium Project.

20. Enforcement

Each unit owner shall strictly comply with the provisions of the Declaration, the Bylaws, the community rules and regulations and decisions issued pursuant thereto. Failure to so comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Management Committee or its designee on behalf of the unit owners, or in an appropriate case, by an aggrieved unit owner.

21. Severability

The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

22. Captions

The captions to this Declaration are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of this Declaration or the intent of any provision hereof.

23. Law Controlling

This Declaration, the condominium Record of Survey Map, and Bylaws shall be construed and controlled by and under the laws of the State of Utah.

24. Effective Date

This Declaration shall take effect when recorded.

IN WITNESS WHEREOF, the undersigned has executed this instrument

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CONSENT TO VACATING SUBDIVISION AND RECORDATION OF CONDOMINIUM
PLAT AND DECLARATION

The undersigned, WESTERN SAVINGS AND LOAN COMPANY, a Utah State chartered savings and loan company, hereby consents to the vacating of the subdivision located in Salt Lake County, Utah referred to as the DIPO ESTATES, together with the vacating of the plat in regard thereto and, further, the undersigned hereby consents to the recordation of the foregoing DECLARATION OF CONDOMINIUM OF THE TIDEWATER VILLAGE CONDOMINIUM and the RECORD OF SURVEY MAP OF THE TIDEWATER VILLAGE CONDOMINIUM in regard thereto, and further agrees, as a lien holder on certain property in said subdivision, to be bound by all of the terms and conditions of said Declaration and Map.

IN WITNESS WHEREOF, the undersigned affixes its signature hereto this 15th day of September, 1978.

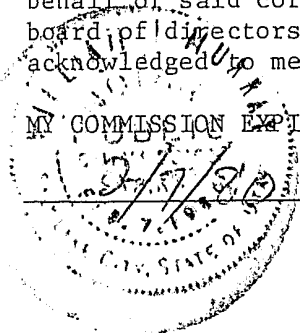
WESTERN SAVINGS AND LOAN COMPANY

By: [Signature]
Position

STATE OF UTAH)
COUNTY OF SALT LAKE) ss.

On the 15th day of September, 1978, personally appeared before me NEIL H. BURT and [Signature], who being by me duly sworn did say that ~~they~~ ^{he is} are the VICE PRESIDENT and of WESTERN SAVINGS AND LOAN COMPANY, and that said instrument was signed in behalf of said corporation by authority of its bylaws or of a resolution of its board of directors, and said NEIL H. BURT and [Signature] acknowledged to me that said corporation executed the same.

MY COMMISSION EXPIRES: _____

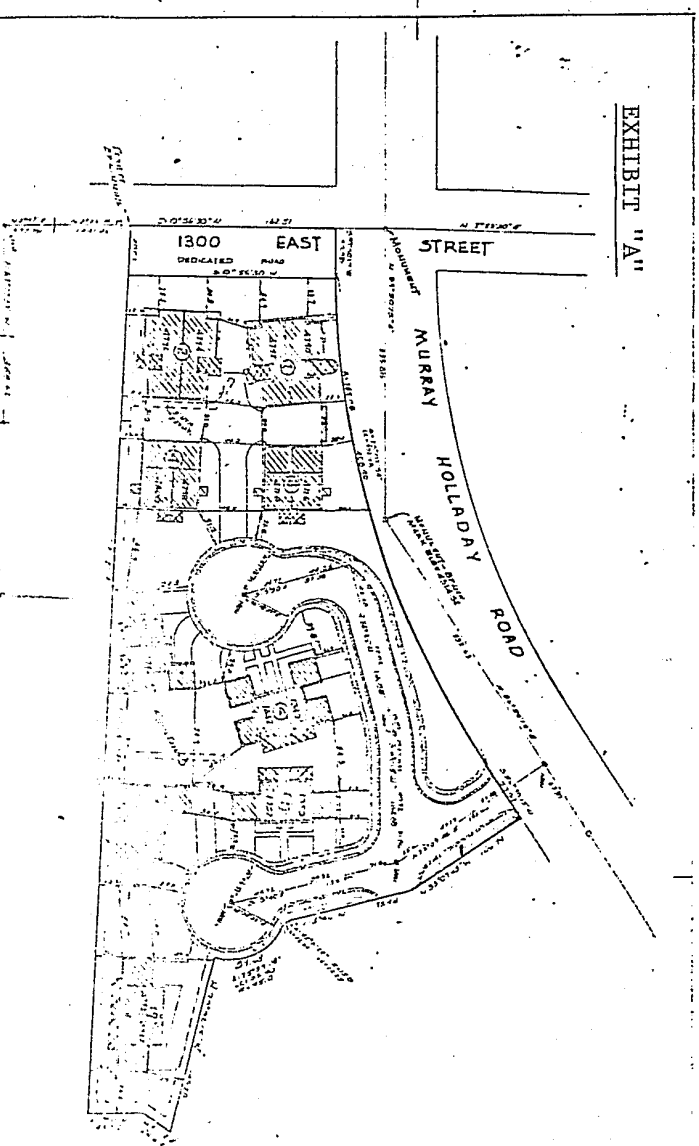


[Signature]
Notary Public

Who Resides At: Salt Lake

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EXHIBIT "A"



LEGEND
 [Symbol] : CONDOMINIUM
 [Symbol] : PUBLIC UTILITY
 [Symbol] : EASEMENT OR ENCUMBRANCE
 [Symbol] : EASEMENT OR ENCUMBRANCE
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SYNOPSIS
 This plan shows the layout of the Tidewater Village Condominium. The building is located on the east side of 1300 East Street, between Murray Holladay Road and the railroad tracks. The plan shows the building footprint, parking areas, and internal circulation. The surrounding streets and utility lines are also indicated.

CERTIFICATE OF CONSENT
 I, the undersigned, being duly qualified, do hereby certify that the above described plan is in accordance with the provisions of the Utah Condominium Act, Chapter 37, Section 3-3-1, Utah Code Annotated, 1953, and that the same has been approved by the Board of Architects and Engineers for the State of Utah.

APPROVED AND FORWARDED:
 [Signature]
 ARCHITECT/ENGINEER

RECORDED IN THE OFFICE OF THE CLERK OF THE DISTRICT COURT OF THE COUNTY OF KANE, UTAH, ON THIS 15th DAY OF APRIL, 1974.

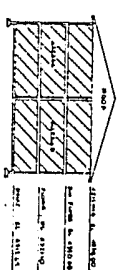
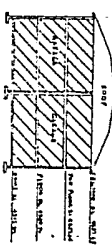
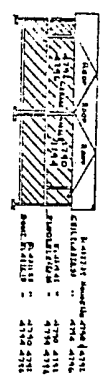
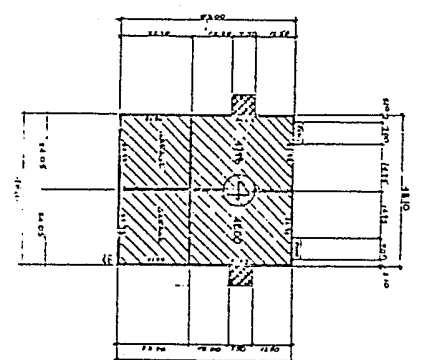
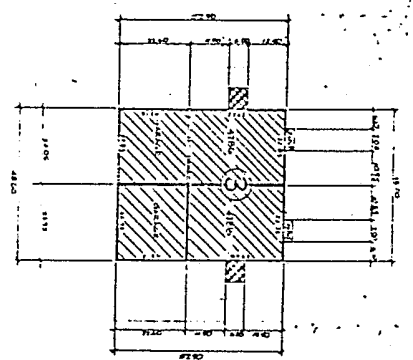
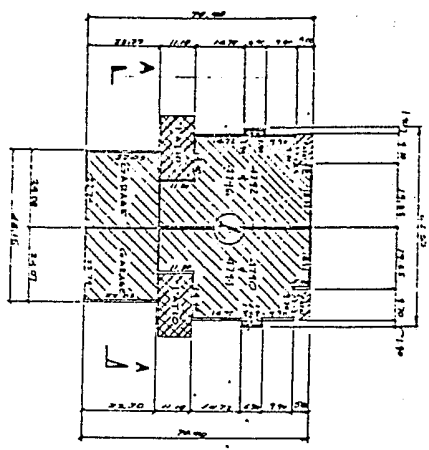
IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said court at Salt Lake City, Utah, this 15th day of April, 1974.

RECORDED IN THE OFFICE OF THE CLERK OF THE DISTRICT COURT OF THE COUNTY OF KANE, UTAH, ON THIS 15th DAY OF APRIL, 1974.

TIDEWATER VILLAGE CONDOMINIUM

RECORD OF CLERK MAP OF
 TIDEWATER VILLAGE CONDOMINIUM
 IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said court at Salt Lake City, Utah, this 15th day of April, 1974.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said court at Salt Lake City, Utah, this 15th day of April, 1974.

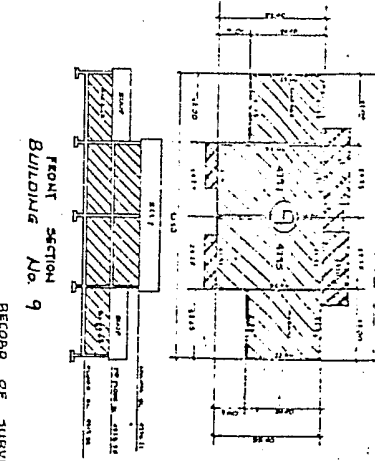
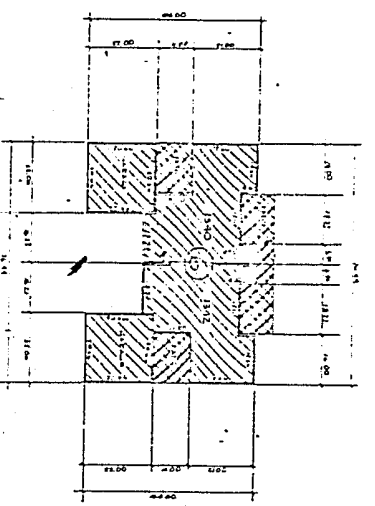
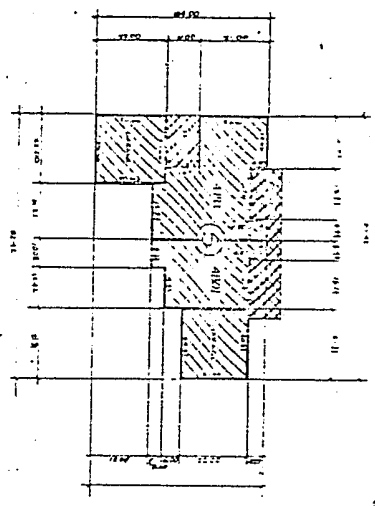


Section A-A

Section A-A

Section A-A

BUILDING NOS. 142



FRONT SECTION
BUILDING No. 5

FRONT SECTION
BUILDING No. 6

FRONT SECTION
BUILDING No. 9

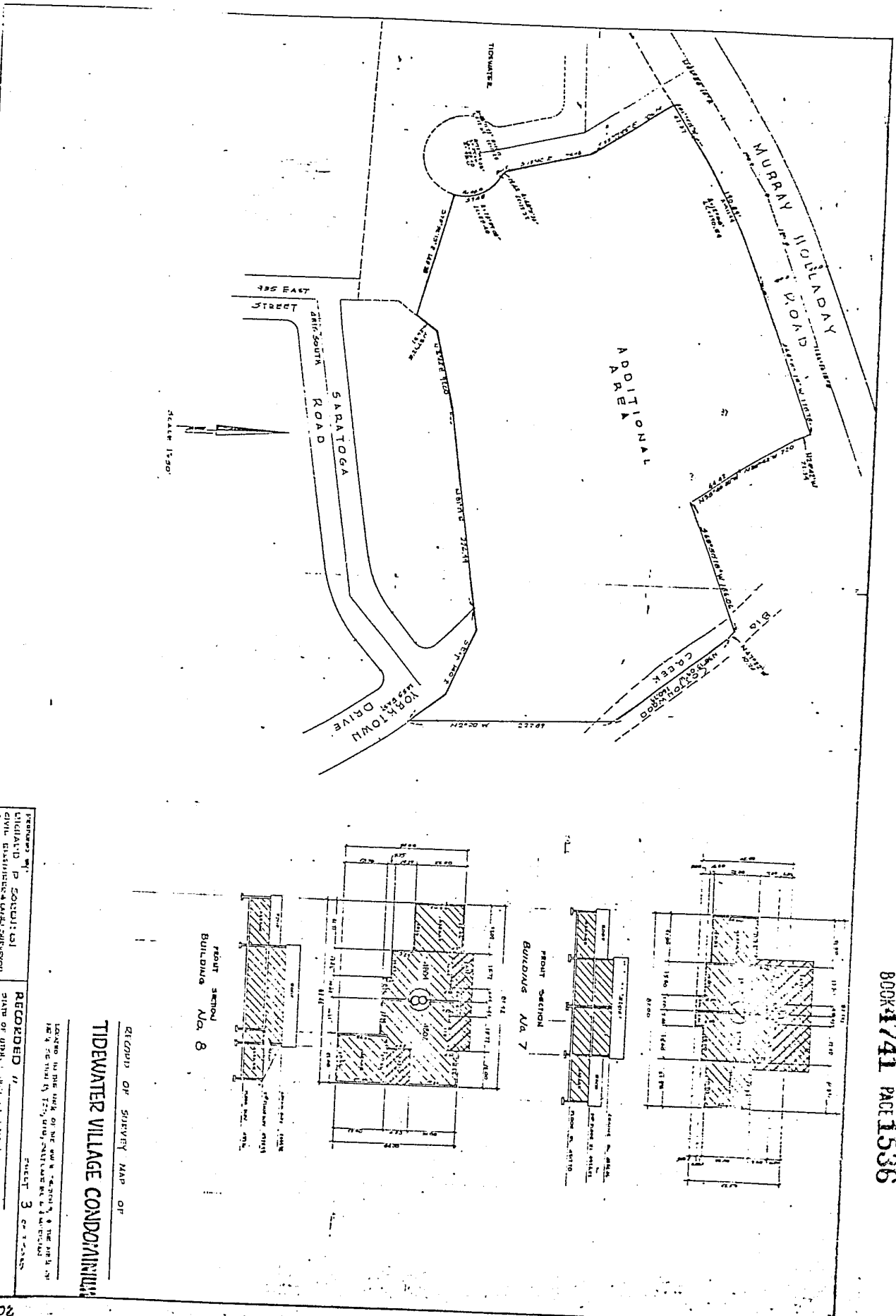
TIDEWATER VILLAGE CONDOMINIUM

RECORD OF SURVEY MAP OF

LOCATED IN THE 14th OF THE DISTRICT OF COLUMBIA, DISTRICT OF COLUMBIA

PREPARED BY
J. J. BORGESINI
1400 KENNEDY BLVD. S.W.
SALT LAKE CITY, UTAH
PHONE 527-7700
FILE 5602

RECORDED IN
DISTRICT OF COLUMBIA
AT THE REQUEST OF
DATE 11/11/54
BY 11111
SHEET 2 OF 3 SHEETS



Scale 1:500

RECORD OF SURVEY MAP OF
 TIDEWATER VILLAGE CONDOMINIUMS

Location: In the City of Norfolk, Virginia, in the County of Norfolk, Virginia, in the State of Virginia.

RECORDED # 3 OF 3 SHEETS

PREPARED BY:
 WILLIAM P. SCOTT, JR.
 CIVIL ENGINEER
 217 FORT MONROE MAIL
 FORT MONROE, VIRGINIA
 FILE NO. 217-1000

EXHIBIT B
 SCHEDULE OF PERCENT OF UNDIVIDED
 INTEREST IN COMMON AREAS AND FACILITIES

<u>Building #</u>	<u>Unit #</u>	<u>Square Footage</u>	<u>% Interest</u>
1	4790	1602	4.710
1	4792	1602	4.710
2	4794	1602	4.710
2	4796	1602	4.710
3	4786	1906	5.604
3	4788	1898	5.582
4	4798	2460	7.233
4	4800	2460	7.233
5	4801	1654	4.864
5	4799	1981	5.826
6	1340	1981	5.826
6	1342	1981	5.826
7	1350	1882	5.534
7	1352	1882	5.534
8	4802	1981	5.826
8	4804	1654	4.864
9	4795	1940	5.704
9	4797	1940	5.704

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EXHIBIT C
ARTICLES OF INCORPORATION
TIDEWATER VILLAGE CONDOMINIUM
OWNERS ASSOCIATION

The undersigned natural person over the age of twenty-one (21) years, acting as incorporator of a corporation under the Utah Nonprofit Corporation and Cooperative Association Act, adopts the following Articles of Incorporation, hereinafter referred to the "Articles", for such corporation and certifies:

ARTICLE FIRST

Name: The name of this corporation is Tidewater Villiage Condominium Owners Association, hereinafter called the "Association".

ARTICLE SECOND

Duration: This corporation shall exist perpetually unless sooner dissolved by law.

ARTICLE THIRD

Purposes: The Association is organized and shall be operated as a nonprofit corporation for the purpose of maintaining and administering the common areas and facilities of the Tidewater Villiage Condominium, collecting and disbursing the assessments and charges provided for in the Declaration of Condominium of the Tidewater Villiage Condominium, hereinafter referred to as the "Declaration", and Bylaws of the Tidewater Villiage Condominium Owners Association, hereinafter referred to as the "Bylaws", otherwise

BOOK 4741
PAGE 1538

administering, enforcing, and carrying out the terms of the Declaration, these Articles, and the Bylaws, and generally providing for and promoting the health, safety, and welfare of residents of Tidewater Villiage Condominium.

ARTICLE FOURTH

Powers: The Association shall have all powers granted to the Association by the Utah Nonprofit Corporation and Cooperative Association Act, Utah Code Annotated (1953), Section 16-6-18 through 16-6-111, and the Utah Condominium Ownership Act, Utah Code Annotated (1953), Section 57-8-1 through 57-8-36, as amended, including but not limited to the following:

- a. To exercise all powers and duties reasonably necessary to operate the Tidewater Villiage Condominium as provided in the Declaration and the Bylaws.
- b. To enforce the Declaration, these Articles, and the Bylaws, and any rules and regulations made pursuant thereto, and to pay all expenses incidental thereto.
- c. To maintain, repair, and replace the common areas and facilities.
- d. To determine, levy, collect, and enforce payment by lawful means of common expense assessments levied against members of the Association to defray the costs incurred in maintaining, repairing and replacing the common areas and facilities.
- e. To make, amend and repeal rules and regulations respecting the use of the Tidewater Villiage Condominium.
- f. To engage the services of a manager or management company, attorneys, accountants, or other employees, agents or professionals, and

to pay to said persons a reasonable compensation for services rendered by them to the Association.

g. To purchase, hold, sell, convey, mortgage or lease any interest in real or personal property subject to the restrictions, limitations, and provisions of the Declaration; so long as the prior written approval of at least seventy-five percent (75%) of the first mortgagees (based on one vote for each mortgage owned), or owners (other than Declarant) of the individual units prior to partitioning or subdividing any unit, or seeking to abandon, partition, subdivide, encumber, sell or transfer the common areas and facilities.

h. To have bank accounts in the name of the Association.

i. To bring, respond to, settle or otherwise resolve legal actions on behalf of or against two or more members of the Association.

j. To do each and every thing necessary, suitable or proper for the accomplishment of any of the purposes or the attainment of any one or more of the subjects herein enumerated, or which may at any time appear conducive to or expedient for protection or benefit of this corporation, and to do said acts as fully and to the same extent as natural persons might, or could do, in any part of the world as principals, agents, partners, trustees or otherwise, either alone or in conjunction with any other person, association or corporation.

ARTICLE FIFTH

Members: The members of the Association shall consist of all persons owning a unit of Tidewater Villiage, a condominium project, in fee simple

as shown in the records of the County Recorder of Salt Lake County, Utah. Members of the Association shall also include any mortgagee, trustee, or beneficiary under a deed of trust who has acquired title to a unit pursuant to any remedy under the mortgage or deed of trust, or any proceeding or procedure in lieu thereof.

The interest of a member in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as an appurtenance to his unit.

The members of the Association shall be entitled to at least one vote for each unit owned by them. The exact number of votes to be cast by owners of a unit and the manner of exercising voting rights shall be determined by the Declaration and the Bylaws.

ARTICLE SIXTH

Amendment: These Articles of Incorporation may be amended by the affirmative vote of two-thirds (2/3) of the votes entitled to vote on each such amendment so long as these Articles as amended contain only such provisions as are lawful under the Utah Nonprofit Corporation and Cooperative Association Act. These Articles shall not be amended in any manner which would adversely affect the interests of first mortgagees without first obtaining the consent of all first mortgagees to such amendment.

ARTICLE SEVENTH

Initial Registered Office and Agent: The address of this corporation's initial registered office is 134 South Main Street, Salt Lake City, Utah. The name of the initial registered agent at such address is Steven L. Ingleby.

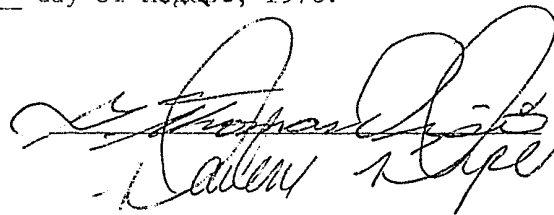
of his duties; provided that in the event of a settlement the indemnification herein shall apply only when the Management Committee approves such settlement and reimbursement as being for the best interests of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such committee member or officer may be entitled.

ARTICLE TENTH

Incorporator: The name and address of the incorporator is:

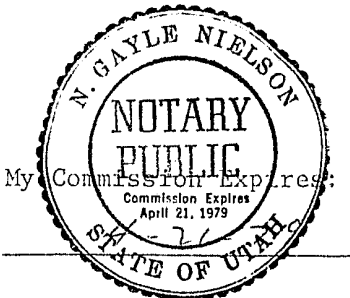
G. Thomas Dipo 1348 Murray Holladay Road
Salt Lake City, Utah 84117

IN WITNESS WHEREOF, I hereunto sign and verify in duplicate these Articles of Incorporation this 12th day of ~~August~~ ^{Sept.}, 1978.



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

I, N. Gayle Nielson a Notary Public, hereby certify that on this 12th day of ~~August~~ ^{Sept.}, 1978, personally appeared before me G. Thomas Dipo who, being by me first duly sworn, severally declared that he is the person who signed the foregoing document as incorporator, that he is of the age of twenty-one (21) years or more, and that the statements therein contained are true.



N. Gayle Nielson
Notary Public
Residing at:

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ARTICLE EIGHTH

Management Committee: The affairs of the Association will be managed by a governing board, referred to in the Declaration and herein as the Management Committee, consisting of the number of members as shall be determined by the Declaration and Bylaws, but not less than three members.

Committee members of the Association shall be elected, removed and vacancies shall be filled in the manner provided by the Declaration and Bylaws. The names and addresses of persons who are to serve as committee members until the first annual meeting of unit owners or until their successors are elected and qualify, are:

G. Thomas Dipo	1348 Murray Holladay Road Salt Lake City, Utah 84117
Darlene Dipo	1348 Murray Holladay Road Salt Lake City, Utah 84117
Steven L. Ingleby	134 South Main Street Salt Lake City, Utah 84101

ARTICLE NINTH

Indemnification: Every committee member and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a committee member or officer of the Association, or any settlement thereof, whether or not he is a committee member or officer at the time such expenses are incurred, except in such cases wherein the committee member or officer is adjudged guilty of willful misfeasance or malfeasance in the performance

EXHIBIT D

BYLAWS

TIDEWATER VILLAGE CONDOMINIUM OWNERS ASSOCIATION

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the Declaration, the Articles, or these Bylaws, is: "Tidewater Villiage Condominium Owners Association".

2. Meetings of the Association

2.1 Annual Meeting.

The first regular meeting of the Tidewater Villiage Condominium Owners Association shall be held at 7:00 p.m. on the second Thursday of February, 1980. Thereafter, there shall be an annual meeting of the association on the second Thursday of February at 7:00 p.m. at the property or at such other reasonable place or time (not more than sixty (60) days before or after such date) as may be designated by written notice by the Management Committee delivered to the unit owners not less than fifteen (15) days prior to the date fixed for said meeting. If an annual meeting is not held within three (3) months after the time provided in these Bylaws, an annual meeting may be called by any ten (10) unit owners having voting rights or by members having the right to cast ten percent (10%) of the votes entitled to be cast at such meetings, whichever is greater. At or prior to an annual meeting, the Management Committee shall furnish to the unit owners for their review and ratification: (i) a budget for the coming fiscal year that shall itemize the estimated common expenses of the coming fiscal year with the estimated allocation thereof to each unit owner; and (ii) a statement of the common expenses itemizing receipts and disbursements for the previous and current fiscal year, together with the allocation thereof to each unit owner. Within ten (10) days after the annual meeting, the budget statement shall be delivered to the unit owners who were not present at the annual meeting.

EXHIBIT D
BYLAWS
OF
TIDEWATER VILLAGE CONDOMINIUM OWNERS ASSOCIATION
A Utah Nonprofit Corporation

The administration of the Tidewater Villiage Condominium Project and the Tidewater Villiage Condominium Owners Association shall be governed by the Declaration of Condominium of the Tidewater Villiage Condominium, referred to in the Declaration and herein as the "Declaration", the Articles of Incorporation of the Tidewater Villiage Condominium Owners Association, referred to in the Declaration and herein as the "Articles", and these Bylaws of the Tidewater Villiage Condominium Owners Association, referred to in the Declaration and herein as the "Bylaws", the Utah Condominium Ownership Act, as amended, Utah Code Annotated, as amended Sections 57-8-1 through 57-8-36, and the Utah Nonprofit Corporation and Cooperative Association Act, Utah Code Annotated (1953), Sections 16-6-18 through 16-6-111.

1. Association of Unit Owners

The Tidewater Villiage Condominium Owners Association is a Utah nonprofit corporation. The name in which contracts shall be entered into, title to property shall be acquired, held, dealt in, and disposed of, bank accounts shall be opened, and suits shall be brought and defended by the Management Committee or officers thereof on behalf of and as agents for the unit owners in the manner specified by the Act,

BOOK 2721
PAGE 1525

3.2 Percentage Interest Determines Number of Votes.

At any meeting of the Association of Unit Owners, each unit owner, including Declarant, either in person or by proxy, shall be entitled to the same number of votes as the percentage of undivided interest of the common areas and facilities assigned to his unit in Exhibit B to the Declaration.

3.3 Voting Where More Than One Unit Owner.

If there is more than one unit owner with respect to a particular unit, any or all of such unit owners may attend any meeting of the Association, but it shall be necessary for all such unit owners present to act unanimously in order to cast the votes pertaining to their unit.

3.4 Voting in Person or Proxy.

All votes may be cast either in person or by proxy. All proxies shall be in writing. Proxies for the annual meeting shall be delivered to the secretary at least five (5) days prior thereto. Proxies for special meetings of the Association must be of record with the secretary at least two (2) days prior to such meeting.

3.5 Quorum.

The presence in person or by proxy at any meeting of the Association of unit owners holding at least fifty percent (50%) of the undivided ownership of the common areas and facilities in response to notice of all unit owners of record properly given shall constitute a quorum. In the event that unit owners holding at least fifty percent (50%) of the undivided ownership of the common areas and facilities are not present

2.2 Special Meetings.

Special meetings of the association may be held at any time at the Property or at such other reasonable place to consider matters which, by the terms of the Declaration or the Bylaws, require the approval of all or some of the unit owners, or for any other reasonable purpose. Special meetings shall be called by written notice, signed by a majority of the Management Committee, or by unit owners representing at least one-third (1/3) in interest of the undivided ownership of the common areas and facilities and delivered to all unit owners not less than fifteen (15) days prior to the date fixed for said meeting. The notices shall specify the date, time and place of the meeting, and the matters to be considered.

2.3 Rules of Order.

Robert's Rules of Order (latest edition) shall govern the conduct of the association's meeting when not in conflict with the Declaration, the Articles of Incorporation, or these Bylaws.

3. Membership and Voting

3.1 Membership in the Association.

The members of the Association shall be the fee owners of the units, including a mortgagee, trustee or beneficiary under a deed of trust who acquires title pursuant to any remedy under the mortgage or deed of trust, or any proceeding or procedure in lieu thereof. The Management Committee shall maintain a list of owners which shall be updated on a regular basis. Disputes over the membership list shall be resolved by reference to the Official Records of the Salt Lake County Recorder's Office.

(and other employees of the Association) responsible for handling funds belonging to or administered by the Association be subject to fidelity bond coverage. Resignation of any officer shall be in writing directed to the Management Committee which shall act promptly thereon.

4.2 President.

The president shall be the chief executive of the Management Committee and shall preside at all meetings of the unit owners and of the Management Committee and may exercise the powers ordinarily assigned to and exercised by the presiding officer of an association, including the appointment of committees. The president shall exercise general supervision over the property and its affairs. He shall sign on behalf of the Association all conveyances, mortgages and contracts of material importance to its business. He shall do and perform all acts which the Management Committee may require.

4.3 Secretary.

The secretary shall keep minutes of all proceedings of the Management Committee and of the meetings of the Association and shall keep such books and records as may be necessary and appropriate for the records of the unit owners and the Management Committee. In the absence or inability of the president, the secretary shall perform the functions of the president.

4.4 Treasurer.

The treasurer shall be responsible for the fiscal affairs of the Association, but may delegate the daily handling of funds and the keeping of records to a manager or managing company.

in person or by proxy, the meeting shall be adjourned for twenty-four (24) hours, at which time it shall reconvene and any number of unit owners present at such subsequent meeting will constitute a quorum.

3.6 Percentage Vote Required.

When a quorum, as provided herein, is present at any meeting, the vote of unit owners representing more than fifty percent (50%) of the undivided percentage interest in the common areas and facilities present in person or represented by proxy, shall decide any question of business brought before such meeting, including the election of the Management Committee, unless the question is one upon which, by express provisions of the Act, the Utah Nonprofit Corporation and Cooperative Association Act, the Declaration, the Articles, or these Bylaws, a different vote is required, in which case such express provision shall govern and control the decision of such question.

4. Officers

4.1 Election, Resignation, Removal of Officers.

All officers and employees of the Association shall serve at the will of the Management Committee. The officers shall be a president, secretary, and treasurer. The Management Committee may appoint such other assistant officers as the Management Committee may deem necessary. No officer shall be required to be a unit owner, but the president must be a member of the Management Committee. No officer shall receive compensation for serving as such. Officers shall be annually elected by the Management Committee and may be removed and replaced by the Management Committee. The Management Committee shall require that officers

4.5 Ratification of Actions.

The membership may ratify actions of the officers subsequent thereto and thereby give full force and effect to such actions as though approved in advance.

5. Management Committee

5.1 Role and Composition of Management Committee.

The management and maintenance of the property and the business and affairs of the Tidewater Villiage Condominium Owners Association ("association") shall be managed by a governing board, referred to in the Declaration and herein as the Management Committee, consisting of five (5) members, who need not be unit owners. The Management Committee shall be elected as provided in these Bylaws, as modified by Section 9 of the Declaration.

5.2 Powers, Duties and Responsibilities of Management Committee.

The Management Committee shall have the right to exercise for and in behalf of the Association the powers, duties, and responsibilities as are now or may hereafter be provided by the Act, the Declaration, and these Bylaws, including but not limited to the following so long as any action taken pursuant to the exercise of such powers, duties, and responsibilities has been authorized by any vote or consent of the unit owners that may be required by this Declaration or the Bylaws:

5.2.1 To make and enforce all house rules and administrative rules and regulations covering the operation and maintenance of the Property.

5.2.2 To engage the services of a manager or managing company, accountants, attorneys or other employees or agents and to pay to said persons a reasonable compensation therefor.

5.2.3 To operate, maintain, repair, improve and replace the common areas and facilities.

5.2.4 To determine and pay the common expenses.

5.2.5 To assess and collect the proportionate share of common expenses from the unit owners.

5.2.6 To enter into contracts, deeds, leases or other written instruments or documents and to authorize the execution and delivery thereof by the appropriate officers.

5.2.7 To open bank accounts on behalf of the Association and to designate the signatures therefor.

5.2.8 To purchase, hold, sell, convey, mortgage or lease any interest in real property for and in behalf of the Association subject to the restrictions, limitations and provisions of the Declaration, so long as the Management Committee has obtained the prior written approval of at least seventy-five percent (75%) of the first mortgagees (based on one vote for each mortgage owned), or owners (other than Declarant) of the individual units prior to partitioning or subdividing any unit, or seeking to abandon, partition, subdivide, encumber, sell or transfer the common areas and facilities.

5.2.9 To bring, prosecute and settle litigation for itself, the Association and the Property, provided that it shall make no settlement which results in a liability against the Management Committee, the Association, or the Property in excess of \$5,000.00 without prior written approval of a majority of unit owners.

5.2.10 To obtain insurance for the Association with respect to the units and the common areas and facilities, as well as Workmen's Compensation Insurance.

5.2.11 To repair or restore the property following damage or destruction, or a permanent taking by the power of, or power in the nature of, eminent domain or by an action or deed in lieu of condemnation, not resulting in the removal of the Property from the provisions of the Act.

5.2.12 To purchase or lease, and sell or otherwise acquire or dispose of, on behalf of the Association, items of personal property necessary to or convenient in the management of the business and affairs of the Association and the Management Committee and in the operation of the Property, including without limitation furniture, furnishings, fixtures, maintenance equipment, appliances, and office supplies.

5.2.13 To keep adequate books and records.

5.2.14 To borrow funds and enter into promissory notes.

5.2.15 To sell portions of the common areas and facilities.

5.2.16 To have a corporate seal.

5.2.17 To approve and sign checks and issue payment vouchers.

5.2.18 To pay off liens against any portion of the Property.

5.2.19 To do all other acts necessary for the operation and maintenance of the Property, including the maintenance and repair of any unit if the same is necessary to protect or preserve the Property, provided however that the management shall operate no other business for profit.

5.3 Waiver of Liability.

Members of the Management Committee, the officers and any assistant officer, agents and employees of the Association (i) shall not be liable to the unit owners as a result of their activities as such for any mistake of judgment, negligence or otherwise, except for their own willful misconduct or gross neglect; (ii) shall have no personal

Bl. 4741 Page 1552-A

liability in contract to a unit owner or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Association in their capacity as such; (iii) shall have no personal liability in tort to any unit owner or any person or entity, direct or imputed, by virtue of acts performed by them, or acts performed for them in their capacity as such; and (iv) shall have no personal liability arising out of the use, misuse or condition of the Property, which might in any way be assessed against or imputed to them as a result or by virtue of their capacity as such.

5.4 Indemnification of Management Committee and Officers.

The unit owners shall indemnify and hold harmless, any person, his heirs and personal representatives, from and against all personal liability and all expenses including counsel fees, incurred or imposed, or arising out of or in settlement of any threatened, pending or completed action, suit or proceedings, whether civil, criminal, administrative or investigative instituted by any one or more unit owners, or any other persons or entities, to which he shall be or shall be threatened to be made a party by reason of the fact that he is or was a member of the Management Committee or an officer or assistant officer of the Association, other than to the extent, if any, that such liability or expense shall be attributable to his willful misconduct or bad faith, provided, in the case of any settlement, that the Management Committee shall have approved the settlement, which approval is not to be unreasonably withheld. Such right of indemnification shall not be deemed exclusive of any other rights to which such person may be entitled as a matter of law

one (1) year and the three other members shall serve for initial terms of two (2) years. The terms of no more than three members will end each year. The members of the Management Committee shall serve until their respective successors are elected, or until their death, resignation or removal. Any member of the Management Committee who fails to attend three consecutive Management Committee meetings or fails to attend at least 25% of the Management Committee meetings held during any calendar year shall forfeit his membership on the Management Committee.

5.7 Resignation and Removal.

Any member of the Management Committee may resign at any time by giving written notice to the president of the Association or the remaining Management Committee members. Any member of the Management Committee may be removed from membership on the Management Committee by a two-thirds majority vote of the Association. Whenever there shall occur a vacancy on the Management Committee due to death, resignation, removal or any other cause, the remaining members shall elect a successor member to serve until the next annual meeting of the Association, at which time said vacancy shall be filled by the Association for the unexpired term, if any.

5.8 Compensation.

The members of the Management Committee shall receive no compensation for their services unless expressly approved by a majority of the Association; provided, however, that any member of the Management Committee may be employed by the Association in another capacity and receive compensation for such employment, if otherwise allowed.

or agreement or vote of unit owners or of the Management Committee or otherwise. The indemnification by the unit owners as contained herein shall be paid by the Management Committee on behalf of the unit owners and shall constitute a common expense and shall be assessed and collectible as such.

5.5 Election of Management Committee.

Beginning with the first annual meeting and at every annual meeting thereafter, the Association shall elect the members of the Management Committee for the forthcoming year. At least thirty (30) days prior to any annual meeting of the Association, the Management Committee shall select from the unit owners a nominating committee of not less than three (3) members (none of whom shall be members of the then Management Committee) who shall recommend to the annual meeting one nominee for each position on the Management Committee to be filled at that particular annual meeting. Nominations for positions on the Management Committee may also be made by petition filed with the secretary of the Association at least seven (7) days prior to the annual meeting of the Association, which petition shall be signed by ten (10) or more unit owners and signed by the nominee named therein indicating his willingness to serve as a member of the Management Committee if elected. Members of the Management Committee shall not be required to be unit owners, but must be natural persons and residents of the state of Utah.

5.6 Term of Management Committee Members.

Members of the Management Committee shall serve for a term of two (2) years; provided, however, that two members of the Management Committee elected at the first annual meeting shall serve for an initial term of

5.9 Management Committee Meetings.

The meetings of the Management Committee shall be held at regular intervals at such time and at such places within the state of Utah as the Management Committee shall determine. Three (3) members of the Management Committee shall constitute a quorum, and if a quorum is present, the decision of a majority of those present shall be the act of the Management Committee. The Management Committee shall annually elect all of the officers of the Association. A regular meeting of the Management Committee shall be held immediately after the adjournment of each annual owners meeting, at which time the Management Committee shall elect all of the officers of the Association.

5.10 Regular Meetings.

Regular meetings of the Management Committee may be held without call or notice.

5.11 Special Meetings.

Special meetings of the Management Committee may be called by the president or by any two Management Committee members. The person or persons calling a special meeting of the Management Committee shall, at least ten (10) days before the meeting, give notice thereof by any usual means of communication. Such notice need not specify the purpose for which the meeting is called; if an agenda is prepared for such a meeting, the meeting need not be restricted to discussions of those items listed on the agenda.

5.12 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 a meeting shall constitute a waiver of notice of such meeting except if a Management Committee member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all 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.

5.13 Management Committee Membership Affidavit.

After the election of the members of the Management Committee at the first annual meeting of the Association, they shall execute, acknowledge and record an affidavit stating the names of the members of the newly elected Management Committee. Thereafter, any two (2) persons who are designated of record as being members of the most recent Management Committee (regardless of whether or not they shall still be members) may execute, acknowledge and record an affidavit stating the names of all of the members of the then current Management Committee. The most recently recorded of such affidavits shall be prima facie evidence that the persons named therein are all of the incumbent members of the Management Committee and shall be conclusive evidence thereof in favor of all persons who rely thereon in good faith.

5.14 Fiscal Year.

The fiscal year shall be determined by the Management Committee.

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5.15 Ratification of Management Committee Actions.

The membership of the Association may ratify actions taken by the Management Committee subsequent to such actions and thereby give such action the full force and effect as though approved in advance.

5.16 Fidelity Bond.

The Management Committee shall require that all officers and employees of the Management Committee who handle or are responsible for the funds of the owners Association be adequately bonded. The premium on such fidelity bonds shall be an expense of the Owners Association and payable as such by the Management Committee.

6. Common Expenses and Assessments

6.1 Apportionment of Expenses.

Each owner shall be liable for a proportionate share of the common expenses, such shares being the same as the percentage of undivided interest in the common areas and facilities appurtenant to the unit owned by the unit owner as set forth in Exhibit B.

6.2 Annual Estimate of Common Expenses.

Within thirty (30) days prior to the annual meeting of the Association, the Management Committee shall estimate the common expenses as defined in the Declaration and capital contributions for the following year. The estimated capital contributions shall include an adequate amount for general working capital, for the general operating reserve, for a reserve fund for maintenance repairs and replacement of those common areas and facilities that must be replaced on a periodic basis, and shall take into account any expected income, surplus or deficit in

the common expenses for any prior year. These estimated capital contributions and common expenses shall be presented at the annual meeting and thereafter shall be assessed on a monthly basis to the unit owners in proportion to their percentage of undivided interest in the common areas and facilities as set forth in the Declaration. The unit owners may, by the vote of unit owners representing more than fifty percent (50%) of the undivided percentage interest in the common areas and facilities, reject any estimate of common expenses or capital expenditure approved by the Management Committee, within thirty (30) days following such approval by the Management Committee. If the estimated common expenses prove inadequate for any reason, including nonpayment of any unit owner's assessments, the Management Committee shall, by resolution duly adopted, make additional assessments, which shall be assessed to the unit owners in the same manner as the estimated common expenses.

6.3 Owners Duty to Pay Assessments.

Each unit owner shall be obligated to pay to the Management Committee assessments made pursuant to this paragraph on or before the first day of each month, or in such other reasonable manner as the Management Committee shall designate. The funds received by the Management Committee from assessments shall be kept in either the capital account or in the common expense fund and shall be expended by the Management Committee only in accordance with the provisions of the Act, the Declaration and these Bylaws.

6.4 Failure to Estimate Common Expenses, No Waiver.

The failure by the Management Committee before the expiration of

shall be available for inspection at the office of the Association by any unit owner or his authorized representative during regular business hours.

6.7 Approval of Owners Required for Major Improvements.

There shall be no single addition or capital improvement exceeding the sum of \$5,000.00 made by the Management Committee without the same having been first voted on and approved by two-thirds (2/3) majority of those present in person or by proxy of the Association at a meeting duly called for that purpose. The foregoing shall not apply in connection with damage or destruction referred to in paragraph 11 of the Declaration or to such structural alterations, capital additions to or capital improvements of the common areas and facilities as are necessary in the Management Committee's reasonable judgment to preserve or maintain the integrity of the common areas and facilities or the Property.

7. Collection of Assessments

7.1 Personal Liability of Each Owner.

All common expense assessments shall be a separate, distinct and personal liability of the owner of each unit at the time each assessment is made. The Management Committee shall have the rights and remedies contained in the Act, the Declaration, the Articles, and these Bylaws to enforce the collection of assessments for common expenses.

7.2 Purchaser's Statement of Unpaid Assessments.

Any person who shall have entered into a written agreement to

any year, to estimate the common expenses as required herein, shall not be deemed a waiver or modification in any respect of the provisions of the Declaration or these Bylaws, or a release of the unit owner from the obligation to pay any past or future assessments, and the estimated common expenses fixed for the previous and current year shall continue until a new estimate is fixed.

6.5 Waiver of Use of Common Areas No Exemption.

No unit owner may exempt himself from liability for common expenses by waiver of the use or enjoyment of any of the common areas and facilities or by abandonment of his unit.

6.6 Accounting Records.

The treasurer shall keep detailed records of all receipts and expenditures, including expenditures affecting the common areas and facilities, specifying and itemizing the maintenance, repair and replacement expenses of the common areas and facilities and any other expenses incurred. In accordance with the actions of the Management Committee assessing common expenses against the units and unit owners, the treasurer shall keep an accurate record of such assessments and of the payments thereof by each unit owner. The books and accounts of the Association shall be kept in accordance with generally accepted accounting procedures under the direction of the treasurer. At the close of each fiscal year, the books and records of the Association shall be audited by a certified public accountant approved by the Association if at least seventy-five percent (75%) of the owners of undivided interest in the common areas and facilities elect to do so. The books and accounts of the Association

not theretofore been reduced to a lien, which shall be paid out of the proceeds of the sale prior to the distribution of any balance to the former unit owner against whom the execution was issued. The purchaser at such sheriff's sale and the unit involved shall not be liable for unpaid assessments for common expenses and for any expenses of or advances by the Management Committee which became due prior to the sheriff's sale of the unit. Any such unpaid assessments which cannot be promptly collected from the former unit owner shall be reassessed by the Management Committee as a common expense to be collected from all of the unit owners, including the purchaser who acquired title at the sheriff's sale, his successors and assigns. To protect its right to collect unpaid assessments for common expenses which are a lien against a unit, and for any expenses of and advances by the Management Committee, the Management Committee may on behalf of all the unit owners, purchase the unit at sheriff's sale, provided such action is authorized by the affirmative vote of a majority of the members of the Management Committee.

7.4 Current Statement of Unpaid Assessments.

In addition to the statements issuable to purchasers of units, the Management Committee shall provide a current statement of unpaid assessments for common expenses and for any expenses of and advances by the Management Committee in respect of the unit, to the unit owner, to any person who shall have entered into a binding agreement to purchase the unit and to any mortgagee on request at reasonable intervals.

7.5 Reassessment of Delinquent Assessments.

In all cases where all or part of any assessments for common

purchase a unit shall be entitled to obtain a written statement from the treasurer setting forth the amount of unpaid assessments charged against the unit and its owners, and if such statement does not reveal the full amount of the unpaid assessments as of the date it is rendered, neither the purchaser nor the unit shall be liable for the payment of an amount in excess of the unpaid assessments shown thereon, provided that the former unit owner grantor shall remain so liable. Any such excess which cannot be promptly collected from the former unit owner grantor shall be reassessed by the Management Committee as a common expense to be collected from all unit owners, including without limitation the purchaser of the unit, his successors and assigns. The new unit owner shall, and the former unit owner shall not, be liable for any assessments made after the date of transfer of title to a unit, even though the common expenses for the expenses incurred or the advances made by the Management Committee for which the assessment is made relate in whole or in part to any period prior to that date.

7.3 Obligation for Unpaid Assessments When Units Sold at Sheriff's Sale.

In the event that title to a unit is transferred at a sheriff's sale pursuant to execution upon any lien against the unit, the Management Committee shall give notice in writing to the sheriff of any unpaid assessments for common expenses which are a lien against the unit, and for any expenses of or advances by the Management Committee which have

expenses and for any expenses of and advances by the Management Committee cannot be promptly collected from the persons or entities liable therefor under the Act, the Declaration, or these Bylaws, the Management Committee shall reassess the same as a common expense, without prejudice to its rights of collection against such persons or entities.

7.6 Lien for Unpaid Assessments.

7.6.1 All sums assessed to any unit pursuant to this section, together with interest thereon as provided herein, shall be secured by a lien on such unit in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such unit, except only for: (a) valid tax and special assessment liens on the unit in favor of any governmental assessing authority; and (b) encumbrances on the interest of the unit owner recorded prior to the date that notice of the lien provided for herein is recorded which by law would be a lien prior to subsequently recorded encumbrances. All other lienors acquiring liens on any unit after the Declaration shall have been recorded shall be deemed to consent that such liens shall be inferior to future liens for assessments, as provided herein, whether or not such consent be specifically set forth in the instruments creating such liens.

7.6.2 To evidence a lien for sums assessed pursuant to this section, the Management Committee may prepare a written notice of lien setting forth the amount of the assessment, the due date, the amount remaining unpaid, the name of the owner of the unit and a description of the unit. Such a notice shall be signed by such body and may be recorded in the office of the County Recorder of Salt Lake County, Utah. No

notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such liens may be enforced by foreclosure by the Management Committee in the same manner in which mortgages or trust deeds on real property may be foreclosed in Utah. In any such foreclosure, the owner shall be required to pay the cost and expenses of such proceeding, the cost and expenses of filing the notice of lien, and all reasonable attorney's fees. All such costs, expenses and fees shall be secured by the lien being foreclosed. The lien shall also secure, and the owner shall also be required to pay to the Management Committee any assessments against the unit which shall become due during the period of foreclosure. The Management Committee shall have the right and the power to bid an amount equal to its then existing lien at the foreclosure sale or other legal sale to acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the same as the owner thereof.

7.6.3 A release of lien shall be executed by the Management Committee and recorded in the office of the County Recorder of Salt Lake County, Utah upon payment of all sums and secured by a lien which has been made the subject of a recorded notice of lien.

7.6.4 Any encumbrancer holding a lien on a unit may pay, but shall not be required to pay, any amounts secured by the lien created by this section, and upon such payments such encumbrancer shall be subrogated to all rights of the Management Committee with respect to such lien, including priority.

7.6.5 The assessing body shall report to any encumbrancer of a unit any unpaid assessments remaining unpaid for longer than thirty (30) days after the same shall have become due; provided, however, that such encumbrancer first shall have furnished to the assessing body written notice of such encumbrance.

7.6.6 In any foreclosure of a lien for assessments, the unit owner subject to the lien shall be required to pay a reasonable rental for the unit, and the Management Committee shall be entitled to the appointment of a receiver to collect the same.

7.7 Personal Obligation Assessments.

The amount of any annual or special assessment against any unit shall be the personal obligation of the owner thereof to the Management Committee. Suit to recover a money judgment for such personal obligation shall be maintainable by the Management Committee without foreclosing or waiving the lien securing the same. No owner may avoid or diminish any personal obligation by waiver of the use and enjoyment of any of the common areas or by abandonment of his unit.

7.8 Right to Restrict Use of Common Areas.

In addition to and not limited by any other remedy provided for herein, the Management Committee may restrict or deny the use and enjoyment of any common area or facility to any owner, his family, guests or assigns, who is delinquent in the payment of any regular or special assessment.

7.9 Right to Receive Rent.

If the unit owner shall, at any time, let or sublet his unit and

shall default for a period of one month in the payment of 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 the rent due or becoming due and the payment of such rent to the Management Committee shall be sufficient payment and discharge of such tenant or subtenant and the owner to the extent of the amount so paid.

7.10 Right to Collect Interest.

Assessments and any installments thereof not paid on or before ten (10) days after the date when due shall bear interest at the maximum rate of interest permitted by Utah law, or at such rate of interest as may be set by the Management Committee, from the date when due until paid. All payments on account shall be first applied to interest and then to the assessment payment first due.

8. Litigation

8.1 Action Brought on Behalf of the Association.

If any action is brought by one or more but less than all unit owners on behalf of the Association and recovery is had, the plaintiff's expenses, including reasonable counsel's fees, shall be a common expense; provided, however, that if such action is brought against the unit owners or against the Management Committee, the officers, employees, or agents thereof, in their capacities as such, with the result that the ultimate liability asserted would, if proved, be borne by all the unit owners, the plaintiff's expenses, including counsel fees, shall not be charged to or borne by the other unit owners, as a common expense or otherwise.

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8.2 Complaints Brought Against the Association, Management Committee, or Officers.

Complaints brought against the Association, the Management Committee or the officers, employees or agents thereof, in their respective capacities as such or the property as a whole, shall be directed to the Management Committee, which shall promptly give written notice thereof to the unit owners and any mortgagees and shall be defended by the Management Committee, and the unit owners and mortgagees shall have no right to participate other than through the Management Committee in such defense. Complaints against one or more, but less than all unit owners, shall be directed to such unit owners, who shall promptly give written notice thereof to the Management Committee and to the mortgagees having an interest in such units, and shall be defended by such unit owners.

9. Abatement and Restraint of Violations of Unit Owners

The violation of any house rules or administrative rules or regulations adopted by the Management Committee or the breach of any provision contained herein, or the breach of any provision of the Declaration, shall give the Management Committee the right, in addition to any other rights set forth in these Bylaws:

9.1 To enter the unit in which or as 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 hereof, and the Management Committee shall not thereby be deemed guilty in any manner of trespass; or

9.2 To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

10. Special Committees

The Management Committee by resolution adopted by a majority of the members of the Management Committee may designate one or more special committees, each committee to consist of two (2) or more unit owners which, to the extent provided in said resolution, shall advise and make recommendations to the Management Committee regarding the matters set forth in said resolution. Such special committee or committees shall have such name or names as may be determined from time to time by the Management Committee. Such special committees shall keep regular minutes of their proceedings and report the same to the Management Committee when required. The members of such special committee or committees designated shall be appointed by the Management Committee or the president. The Management Committee or the president may appoint unit owners to fill vacancies on each of said special committees occasioned by death, resignation, removal or inability to act for any extended period of time.

11. Resolution of Disputes

11.1 Purpose.

In order to promote homogeneity of ownership, democratic self-rule by the Association, uniformity and stability in operation, and timely and appropriate resolution of grievances and disputes, there shall be established a Grievance and Disciplinary Committee.

11.2 Agreement of Association Members.

By becoming a member of the Tidewater Villiage Condominium Owners Association, a unit owner, except with respect to a first mortgagee

who acquires title pursuant to any remedy under the mortgage or deed of trust, or in any proceeding or procedure in lieu thereof, agrees to submit to the Grievance and Disciplinary

Committee to the extent permitted by laws and any dispute, other than a dispute over common expense assessments, which may arise between such a person and any other owner or occupant of a condominium unit, the Tidewater Villiage Condominium Owners Association, or Tidewater Villiage Condominium Management Committee, subcommittee(s) or officers which cannot be resolved between the concerned parties in bona fide private negotiations. A unit owner agrees to exhaust the means provided in this section for the resolution of disputes before resorting to a court of law in all matters concerning the internal affairs of the Association.

11.3 Organization.

The Grievance and Disciplinary Committee shall consist of five (5) members. Each of the five members must be unit owners of condominium units in the Tidewater Villiage Condominium. No member of the Grievance and Disciplinary Committee shall serve on any committee or subcommittee of or serve as an officer of the Tidewater Villiage Condominium Owners Association during the time he is a member of the Grievance and Disciplinary Committee.

11.4 Appointment.

Members of the Grievance and Disciplinary Committee shall be appointed by the officers of the Association. Members of such committee shall serve for a term of two (2) years; provided, however, that three of the initial members of the Grievance and Disciplinary Committee appointed by the first officers of the Association shall serve for initial terms of two (2) years and two of the initial members of the committee shall serve for initial terms of one (1) year. Whenever there shall occur a vacancy on the Grievance and Disciplinary Committee due to

death, resignation or any other cause, the officers of the Association shall appoint a successor member to serve for the unexpired term.

11.5 Commencement of Grievance Action.

12.5.1 Written complaint. A grievance between two or more unit owners, or between a unit owner or owners and the Tidewater Villiage Condominium Owners Association, Management Committee or officers, shall be submitted to the Grievance and Disciplinary Committee after bona fide efforts have been made by the concerned parties to reconcile the differences between them through private negotiations and through the arbitration efforts of the condominium manager. A grievance shall be filed with the committee by preparing and submitting to the committee a written complaint naming the parties involved and stating the facts that form the basis of the grievance. As evidence that bona fide efforts have been made by the concerned parties to resolve the differences between them, the moving party shall also file with the committee at the time a grievance complaint is filed, an affidavit signed by the moving party and the condominium manager setting forth in detail the nature of the efforts previously made to reconcile the differences between the concerned parties.

11.5.2 Notice. Within three (3) days of the date on which the written complaint is filed with the Grievance and Disciplinary Committee, the moving party will serve a copy of the complaint and a notice of grievance upon the opposing party. The notice of grievance shall contain the following:

- a. The names of the parties to the grievance.

Association. In no case shall such officer be a member of the Grievance and Disciplinary Committee. The officer before whom the deposition is to be taken shall put the witnesses under oath and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. If requested by one of the parties, the testimony shall be transcribed, the costs thereof to be borne by the party requesting the transcription. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings shall be noted by the officer upon the deposition.

11.6.1.a Submission to Witness: Changes; Signing. When the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found, or refuses to sign. If the deposition is not signed by the witness within thirty (30) days of its submission to him, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as

b. A statement that a copy of the complaint is being served therewith which explains the nature of and facts concerning the grievance.

c. A statement that the Grievance and Disciplinary Committee will conduct a hearing into the grievance and will render a decision in written form based upon written testimony and other evidence submitted by the parties involved.

d. A statement that the parties will have an opportunity to confront and cross-examine adverse witnesses through depositions and written interrogatories.

11.6 Evidence Gathering Procedures.

The Grievance and Disciplinary Committee will render decisions based upon evidence submitted to the committee by the parties involved in a grievance action. Parties will be required to submit their evidence in the form of written documents which may be derived from depositions, written interrogatories and other sources.

11.6.1 Depositions. No sooner than seven (7) days after and for a period of fourteen (14) days from the date of commencement of a grievance action, any party may take the testimony of any person, including a party, by deposition. Any party desiring to take the depositions of any person shall give five (5) days notice in writing to every party to the action and to the person who is to be deposed. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined. The committee may, for cause shown, enlarge or shorten the period of time for taking depositions. The deposition shall be taken before one of the officers of the

though signed unless the committee holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

11.6.1.b Certification and Filing by Officer; Exhibits; Copies; Notice of Filing. The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. He shall then securely seal the deposition in an envelope endorsed with the title of the action and marked "Deposition of _____" and shall promptly file it with the committee.

Documents and things produced for inspection during the examination of the witness shall, upon the request of a party, be marked for identification and annexed to and returned with the deposition, and may be inspected and copies made by any party except that (1) the person producing the materials may substitute copies to be marked for identification, if he affords to all parties fair opportunity to verify the copies by comparison with the originals, and (2) if the person producing the materials requests their return, the officer shall mark them, give each party an opportunity to inspect and copy them, and return them to the person producing them, and the materials may then be used in the same manner as if annexed to and returned with the deposition. Any party may move for an order that the original be annexed to and returned with the deposition to the court, pending final disposition of the action.

Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

The party taking the deposition shall give prompt notice of its filing to all other parties.

11.6.2 Interrogatories to Parties. Any party may serve upon any other party written interrogatories to be answered by the party served. Interrogatories may be served upon the moving party after commencement of the action and upon any other party with or after service of the notice and complaint upon that party.

Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers and objections are to be signed by the person making them. The party upon whom the interrogatories have been served shall serve a copy of the answers and objections, if any, within fifteen (15) days after service of the interrogatories, except that a defendant may serve answers or objections within twenty (20) days after service of the summons and complaint upon that defendant. The committee may allow a shorter or longer time. The party submitting the interrogatories may move for an order with respect to any objection to or other failure to answer an interrogatory.

11.7 Method of Decision Making.

The decisions of the Grievance and Disciplinary Committee shall be based on the written evidence which is timely and properly filed with the committee by the parties to a grievance action. Only evidence which meets the requirements of relevancy and materiality as set forth in the then current Utah Rules of Evidence shall be used by the committee in

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arriving at its decisions in grievance actions. After having read and evaluated the evidence filed with the committee, the members of the committee shall deliberate between themselves as to the best course of action to follow in resolving the dispute between the concerned parties. Whichever proposed course of action receives the majority of the votes cast by the members of the committee in a secret ballot shall be the decision of the committee. The Grievance and Disciplinary Committee shall arrive at a final decision in a grievance action timely and properly brought before it in no more than twenty-one (21) days following the date on which all evidence has been duly submitted to the committee by the parties involved in such grievance action.

Each decision of the Grievance and Disciplinary Committee shall be announced to the condominium membership no later than thirty (30) days after each such decision has been reached by the committee. A written statement of the decision describing the conduct or Association ruling that has been disputed, the decision reached by the committee concerning the dispute, and the reasons of the committee for reaching such a decision shall be produced by the committee and submitted to the secretary of the Association. The secretary shall maintain a file containing all of the decisions of the Grievance and Disciplinary Committee. Such file shall be open to the inspection of Association members, members of the Management Committee, and officers of the Association on regular business days and during regular business hours.

12. Application of Bylaws

All present and future unit owners, mortgagees, lessees and

occupants of units and their employees, and any other persons who may use the facilities of the Property in any manner are subject to the Declaration and these Bylaws, and all rules made pursuant hereto and any amendment thereof. The acceptance of a deed of conveyance or the entering into of a lease or the act of occupancy of a unit shall constitute an agreement that the provisions of the Declaration and these Bylaws (and any rules and regulations made pursuant thereto), as they may be amended from time to time, are accepted, ratified, and will be complied with.

13. Notices, Waiver of Notice

Any notice permitted or required to be delivered as provided herein may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to be delivered twenty-four (24) hours after a copy of the same has been deposited in the U. S. Postal Service, postage prepaid, return receipt requested. Notice to unit owners shall be addressed to each unit owner at the address given by such unit owner to the Management Committee for the purpose of service of such notice or to the unit of such unit owner if no such address has been given to the Management Committee. Such address may be changed from time to time by notice in writing to the Management Committee. Notice to the Management Committee shall be addressed to: 1350 East Murray-Holladay Road, Salt Lake City, Utah 84117. Any unit owner may at any time waive any notice required to be given under these Bylaws, or by statute or otherwise. The presence of a unit owner in person at any meeting of the unit owners shall be deemed such waiver.

14. No Waiver

The failure of the Management Committee or its contractors to insist, in one or more instances, upon the strict performance of any of the terms, covenants, conditions, or restrictions of the Declaration or Bylaws, or to exercise any right or option herein contained, or to serve any notice or to institute any action shall not be construed as a waiver of relinquishment, for the future, of such term, covenant, condition or restriction; but such term, covenant, condition or restriction shall remain in full force and effect. The receipt and acceptance by the Management Committee or its contractor of the payment of any assessment from a unit owner, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by the Management Committee of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Management Committee.

15. Amendment of Bylaws

These Bylaws may be amended by a affirmative vote of owners who own not less than two-thirds (2/3) of the undivided percentage interests of the Tidewater Villiage Condominium Project at a meeting duly called for such purpose. Upon such an affirmative vote, the Management Committee shall acknowledge the amended Bylaws, setting forth the fact of the required affirmative vote of the unit owners and the amendment shall be effective upon recording. These Bylaws shall not be amended in any manner which would adversely affect the interests of the first mortgagees without first obtaining the consent of all first mortgagees to such amendment.

16. Severability

The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

17. Captions

The captions herein are inserted only as a matter of convenience and for reference and in no way to define, limit or describe the scope of these Bylaws nor the intent of any provision hereof.

18. Effective Date

These Bylaws shall take effect upon recording of the Declaration of Tidewater Villiage Condominium, to which these are an Exhibit.