

4583609

BYLAWS
AND

DECLARATION ESTABLISHING A PLAN FOR CONDOMINIUM
OWNERSHIP PURSUANT TO UTAH CODE ANNOTATED
57-8-1 ET SEQ (1953)

58⁵⁰

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08 FEBRUARY 88 11:06 AM
KATIE L. DIXON
RECORDER, SALT LAKE COUNTY, UTAH
COLONIAL PINES INC
REC BY: JANET WONG , DEPUTY

1. Submission of property. Planners, Inc., a corporation organized and existing under the laws of the State of Utah, whose principal office is situated at 1174 East 2700 South, Salt Lake City, Utah, hereby submits the following land owned by it and located in Salt Lake County, Utah, together with the buildings and improvements to be erected thereon, hereinafter collectively called the condominium, to the provisions of Utah Code Annotated 57-8-1 et seq (1953):

"Beginning at the Northeast corner of Lot 9, Block 27, Ten Acre Plat "A", Big Field Survey, and running thence North 89°52'12" East 59.40 feet; thence South 11°50' East 200.74 feet thence South 2°26' East 234.72 feet; thence South 89°52'12" West 210.00 feet; thence North 24°00'14" East 48.99 feet; thence North 2°03'58" East 386.67 feet; thence North 89°52'12" East 65.60 feet to the point of beginning."

2. Name and Address. The condominium shall be known as "Colonial Pines Condominium Apartments". The addresses of the three condominium buildings shall be 1190, 1192 and 1194 East 27th South, Salt Lake City, Utah.

3. Buildings. The buildings to be constructed, hereinafter called the buildings, are expected to be substantially completed on or about June 1, 1972. They have approximately two (2) stories above ground and one (1) story below ground. The usable interior space, which is to be divided into apartments, consists of approximately 38,394.16 square feet of floor space. This does not include the common areas to be described hereinafter. Present plans

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call for the interior space to be divided into 24 individual owned units.

The buildings are to be constructed of reinforced concrete and wood with a brick exterior. They are to be supplied with gas and electricity and each individual unit will contain its own heating and air conditioning equipment.

4. Apartment Units. Annexed hereto and made a part hereof as Exhibit A is a list of all apartment units in the building, their unit designations, locations, approximate areas, common elements to which each has immediate access (all as shown on the floor plans of the building, which have been prepared by Bush and Gudgeon, Inc., engineers and which will be recorded with the Salt Lake County Recorder, simultaneously with the recording of this declaration), and the percentage of interest of each unit in the common elements. The percentage of interest of each unit in the common elements has been determined on the basis of the proportion which the value of each unit bears to the total value of all units.

5. Dimensions of units. Horizontally each unit consists of the area measured from the unit side of the exterior walls of the building to the unit side of the walls and partitions separating such unit from corridors, stairs, elevators, and other mechanical equipment spaces; and where walls and partitions separate such unit from other units, to the inside of such walls and partitions facing such unit. Vertically each unit consists of the space between the top of the floor and the underside of the ceiling.

6. Use of units. Each of the units shall be used as a residence only. They shall also be used in such manner as to not

interfere with the use of adjoining units by the owners thereof.

7. Common areas. The common elements consist of the entire condominium property, including all parts of the building other than the units, and including, without limitation, the following:

(a) The land on which the building is erected;

(b) All foundations, columns, girders, beams and supports, including bearing walls;

(c) All exterior walls of the building not including the portions thereof on the unit side of such walls; all walls and partitions separating units from corridors; elevator shafts, stairs, and mechanical equipment spaces, other than the portions thereof between the unit side of such walls and partitions and any block work of such walls and partitions; the block work of all walls and partitions separating units and containing block work; the portions of the plaster partitions separating units between the center lines of the plaster on each side of such partitions; and all concrete floors and concrete ceilings;

(d) Roofs, halls, corridors, lobbies, stairs, stairways, and entrances to and exits from the building;

(e) The janitorial closets, yards, gardens, greens, patios, swimming pool and any other recreational areas and facilities, parking and driveway areas, storage areas which are not designated as "limited common areas" as hereinafter defined and parking stalls which are not assigned for use with specific units.

(f) All space devoted to the use of any persons employed in connection with the operation of the condominium property;

(g) All central and appurtenant installations for

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services such as power, light, telephone, gas and hot and cold water, (including all pipes, ducts, wires, cables, and conduits used in connection therewith, whether located in common areas or in units), and all other mechanical equipment spaces;

(h) All elevators, tanks, pumps, motors, fans, compressors, and control equipment;

(i) All sewer pipes;

(j) All other parts of the condominium property and all apparatus and installations existing in the building or on the property for common use or necessary or convenient to the existence, maintenance, or safety of the condominium.

8. Limited common areas and facilities. The limited common areas and facilities consist of those portions of the condominium property which are reserved for the use of a certain unit to the exclusion of the other units. The limited common areas and facilities shall include the parking stalls which are assigned for use with specific units and the twenty-four separate storage rooms which are intended to be assigned for use with specific units.

9. Encroachments. If any portion of the common elements shall encroach upon any unit, or if any unit shall encroach upon any other unit or upon any portion of the common elements as a result of the construction of the building, or as a result of settling or shifting of the building, a valid easement for the encroachment and for its maintenance shall exist so long as the building stands. In the event the building, the unit, any adjoining unit, or any adjoining common element, shall be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, and then rebuilt, any

resulting encroachment of a part of the common elements upon any unit or of any unit upon any other unit or upon any part of the common elements shall be permitted, and a valid easement for such encroachments and for its maintenance shall exist so long as the building stands.

10. Common elements inside units. The board of managers to be elected by the unit owners pursuant to the by-laws (attached as Exhibit B), shall have a right of access to each unit to inspect all pipes, wires, ducts, cables, conduits, public utility lines, and other common elements located within any of the units, to remove violations therefrom, and to maintain, repair, or replace such common elements and common elements located elsewhere in the building.

11. Power of attorney to board of managers. Each unit owner shall grant to the persons who shall from time to time constitute the board of managers, an irrevocable power of attorney, coupled with an interest, to acquire title to or lease any unit whose owner desires to surrender, sell or lease the same, or which may be the subject of a foreclosure or other judicial sale, in the name of the board of managers or its designee, corporate or otherwise, on behalf of all unit owners, and to convey, sell, lease, mortgage, vote the votes appurtenant thereto, or otherwise deal with any such unit so acquired or leased. Any unit so acquired, together with any interest in the common elements or in other condominium property appurtenant thereto, shall be held by the board of managers or its designee, corporate or otherwise, on behalf of all unit owners, in proportion to their respective common interests. A lease covering any unit or any portion of the common areas leased by the board of managers, or

its designee, corporate or otherwise, shall be held by the board of managers, or its designee, on behalf of all unit owners, in proportion to their respective common interests.

12. Person to receive service. Ronald Coulam of 1174 East 2700 South, Salt Lake City, Utah, is hereby designated to receive service of process in any action which may be brought against the condominium.

13. Units subject to declaration, by-laws, rules, and regulations. All present and future owners, tenants, and occupants of units shall be subject to, and shall comply with the provisions of this declaration, the by-laws, and rules and regulations adopted pursuant thereto, as these instruments may be amended from time to time. The acceptance of a deed or conveyance, or the entering into of a lease, or the entering into occupancy of any unit shall constitute an acceptance of the provisions of such instruments, as they may be amended from time to time, by such owner, tenant, or occupant. The provisions contained in such instruments shall be covenants running with the land and shall bind any person having at any time any interest or estate in such unit, as though such provisions were recited and fully stipulated in each deed, conveyance, or lease thereof.

14. Amendment of declaration. This declaration may be amended by the vote of at least 66-2/3% in number and in common interest of all unit owners, cast in person or by proxy at a meeting duly held in accordance with the provisions of the by-laws. No such amendment shall be effective until recorded in the office of the Salt Lake County Recorder, State of Utah.

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15. Invalidity. The invalidity of any provisions of this declaration shall not affect in any manner the validity or enforceability of the remainder of this declaration, and the other provisions of this declaration shall continue in effect as if such invalid provision had never been included herein.

16. Waiver. No provisions contained in this declaration shall be deemed to have been waived by reason of any failure to enforce it, irrespective of the number of violations which may occur.

17. Pets and children. No pets will be allowed in the condominium and no children under the age of 18 will be allowed in the condominium.

EXHIBIT B

AMENDED BY-LAWS OF COLONIAL PINES CONDOMINIUM APARTMENTS

ARTICLE I

Plan of unit ownership

Section 1. Unit ownership. The property located at 1190, 1192, and 1194 East 2700 South, Salt Lake City, Utah, (hereinafter called the "Condominium") has been submitted to the provisions of Utah Code Annotated 57-8-1 et seq (1953) by declaration recorded in the office of the Salt Lake County Recorder simultaneously herewith.

Section 2. Application of by-laws. The provisions of these by-laws are applicable to the condominium and to the use and occupancy thereof. The term "condominium" property as used herein shall include the land, the building, and all other improvements thereon, all easements, rights and appurtenances belonging thereto, and all other property, personal or mixed, intended to be submitted to the provisions of Utah Code Annotated 57-8-1 et seq (1953).

Section 3. Application. All present and future owners, mortgagees, lessees, and occupants of units and any other persons who may use the facilities of the condominium in any manner are subject to these by-laws, the declaration, and any rules and regulations pertaining to use and operation of the condominium property, which may be enacted hereafter. The acceptance of a deed or conveyance, or the entering into of a lease, or the act of occupancy of a unit shall constitute an acceptance of the provisions of instruments and an agreement to comply therewith.

Section 4. Office. The office of the condominium and of the board of managers shall be located at 1190, 1192, and 1194 East 2700 South, Salt Lake City, Utah.

ARTICLE II

Board of Managers

Section 1. Number and qualification. The affairs of the condominium shall be governed by a board of managers. The board of managers shall be composed of five persons, all of whom shall be owners or spouses of owners or mortgagees of units.

Section 2. Powers and duties. The board of managers shall have the powers and duties necessary for the administration of the affairs of the condominium, except such powers and duties as by law or by the declaration or by these by-laws may not be delegated to the board of managers by the unit owners. The powers and duties to be exercised by the board of managers shall include, but shall not be limited to, the following:

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

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

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

(d) Employment and dismissal of any personnel deemed necessary for the efficient maintenance and operation of the condominium;

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

(f) Operating of bank accounts on behalf of the condominium and designating the signatories required therefor;

(g) Purchasing, leasing, or otherwise acquiring in the name of the board of managers, or its designee, corporate or otherwise, on behalf of all unit owners, units offered for sale or lease or surrendered by their owners to the board of managers;

(h) Purchasing units at foreclosure or other judicial sales in the name of the board of managers, or its designee, corporate or otherwise, on behalf of all unit owners;

(i) Selling, leasing, mortgaging, voting the votes appurtenant to (other than for the election of members of the board of managers), or otherwise dealing with units acquired by, and subleasing units leased by the board of managers or its designee, corporate or otherwise, on behalf of all unit owners;

(j) Organizing corporations to act as designees of the board of managers in acquiring title to or leasing of units on behalf of all unit owners;

(k) Leasing space in common areas or granting licenses for vending machines, if such are deemed appropriate;

(l) Obtaining insurance for the condominium property, including the units, pursuant to the provisions of Article V, Section 2 hereof; and

(m) Making repairs, additions, and improvements to, or alterations of, the condominium property, and repairs to and restoration of the property in accordance with the other provisions of these by-laws, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings.

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

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

Section 5. Removal of members of the board of managers.

At any regular or special meeting of unit owners, any one or more of the members of the board of managers may be removed with or without cause by a majority of the unit owners and a successor may then and there or thereafter be elected to fill the vacancy thus created. Any member of the board of managers whose removal has been proposed by the unit owners shall be given an opportunity to be heard at the meeting.

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

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

Section 8. Regular meetings. Regular meetings of the board of managers may be held at such time and place as shall be determined from time to time by a majority of the members of the board of managers, but at least one such meeting shall be held during each fiscal year. Notice of regular meetings of the board of managers shall be given to each member of the board of managers, in writing, at least three business days prior to the day named for such meetings.

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

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

Section 11. Quorum of board of managers. At all meetings of the board of managers, a majority of the members thereof shall constitute a quorum for the transaction of business, and the votes

of a majority of the members of the board of managers present at a meeting at which a quorum is present shall constitute the decision of the board of managers. If at any meeting of the board of managers there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called, may be transacted without further notice.

Section 12. Compensation. No member of the board of managers shall receive any compensation from the condominium for acting as such.

Section 13. Liability of the board of managers. The members of the board of managers shall not be liable to the unit owners for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The unit owners shall indemnify and hold harmless each member of the board of managers against all contractual liability to others arising out of contracts made by the board of managers on behalf of the condominium unless any such contract shall have been made in bad faith or contrary to the provisions of the declaration or of these by-laws. It is intended that the members of the board of managers shall have no personal liability with respect to any contract made by them on behalf of the condominium. It is also intended that the liability of any unit owner arising out of any contract made by the board of managers or out of the indemnity in favor of the members of the board of managers shall be limited to such proportion of the total liability thereunder as his interest in the common elements bears to the interests of all the unit owners in the common elements. Every agreement made by the

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

ARTICLE III

Unit Owners

Section 1. Annual meetings. The annual meetings of the unit owners shall be held on the 15th day of August of each succeeding year, unless such date shall occur on a Saturday or Sunday, in which event the meeting shall be held on the succeeding Monday. At such meetings the board of managers shall be elected by ballot of the unit owners in accordance with the requirements of Section 4 of Article II of these by-laws.

Section 2. Place of meetings. Meetings of the unit owners shall be held at the principal office of the condominium or at such other suitable place convenient to the owners as may be designated by the board of managers.

Section 3. Special meetings. It shall be the duty of the president to call a special meeting of the unit owners if so directed by resolution of the board of managers or upon a petition signed and presented to the secretary-treasurer by unit owners owning a total of at least 25% of the common interest. The notice of any

special meeting shall state the time, place and purpose of the meeting. No business shall be transacted at a special meeting except as stated in the notice.

Section 4. Notice of meetings. The secretary-treasurer shall mail or deliver to each unit owner of record a notice of each annual or special meeting of the unit owners, at least ten but not more than twenty days prior to such meeting, stating the purpose thereof as well as the time and place where it is to be held, at the building or at such other address as such unit owners shall have designated by notice, in writing, to the secretary-treasurer. The mailing of a notice of meeting in the manner provided in this section shall be considered service of notice.

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

Section 6. Order of business. The order of business at all meetings of the unit owners shall be determined by the president, in conjunction with the board of managers.

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

Section 8. Voting. The owner or owners of each unit, or some person designated by such owner or owners to act as proxy on his or their behalf and who need not be an owner, shall be

entitled to cast the votes appurtenant to such unit at all meetings of unit owners. The designation of any such proxy shall be made in writing to the secretary-treasurer, and shall be revocable at any time by written notice to the secretary-treasurer by the owner or owners so designated. The total number of votes of all unit owners shall be 100 and each unit owner (and the board of managers, shall then hold title to one or more units) shall be entitled to cast the number of votes listed in Exhibit A which is attached to the declaration which is on file in the office of the Salt Lake County Recorder.

Section 9. Majority of unit owners. As used in those by-laws the term "majority of unit owners" shall mean these unit owners having more than 50% of the total authorized votes of all unit owners present in person or by proxy and voting at any meeting of the unit owners, determined in accordance with the provisions of Section 8 of this Article III.

Section 10. Quorum. Except as otherwise provided in these by-laws, the presence in person or by proxy of unit owners having one-half of the total authorized votes of all unit owners shall constitute a quorum at all meeting of the unit owners.

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

ARTICLE IV

Officers

Section 1. Designation. The principal officers of the condominium shall be the president and the secretary-treasurer, both of whom shall be elected by the board of managers. The president and secretary-treasurer must be members of the board of managers.

Section 2. Election of officers. Officers shall be elected annually by the board of managers at the organization meeting of each new board of managers and shall hold office at the pleasure of the board of managers.

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

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

Section 5. Secretary-Treasurer. The secretary-treasurer shall take the place of the president and perform his duties whenever the president shall be absent or unable to act. The secretary-treasurer shall keep the minutes of all meetings of the unit owners and of the board of managers; he shall have charge of such books and papers as the board of managers may direct; and he shall, in general, perform all the duties incident to the offices of secretary and treasurer of a stock corporation organized under the Business Corporation Law of the State of Utah. He shall have the responsibility for condominium funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial statements. He shall be responsible for the deposit of all moneys and other valuable effects in the name of the board of managers, or the managing agent, in such depositories as may from time to time be designated by the board of managers. The board of managers shall have the power to hire one or more secretaries or bookkeepers to assist the secretary-treasurer in the performance of his responsibilities hereunder.

Section 6. Agreements, contracts, deeds, checks, etc. All agreements, contracts, deeds, leases, checks, and other instruments of the condominium shall be executed by the two officers of the condominium or by such other person or persons as may be designated by the board of managers.

Section 7. Compensation of officers. No officer shall receive any compensation from the condominium for acting as such.

ARTICLE V

Operation of the Property

Section 1. Determination of common expenses and common charges. The board of managers shall from time to time, and at least annually, prepare a budget for the condominium, determine the amount of the common charges required to meet the common expenses of the condominium, and allocate and assess such common charges against the unit owners according to their respective common interests. The common expenses shall include, among other things, the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the board of managers pursuant to the provisions of Section 2 of this Article V. The common expenses may also include such amounts as the board of managers may deem proper for the operation and maintenance of the condominium property, including, without limitation, an amount for working capital of the condominium, for a general operating reserve, for a reserve fund for replacements, and to make up any deficit in the common expenses for any prior year. The common expenses may also include such amounts as may be required for the purchase or lease by the board of managers or its designee, corporate or otherwise, on behalf of all unit owners, of any unit whose owner has elected to sell or lease such unit or of any unit which is to be sold at a foreclosure or other judicial sale. The board of managers shall advise each unit owner in writing of the amount of common charges payable by him, and shall furnish copies of each budget on which such common charges are based to all unit owners and to their mortgagees.

Section 2. Insurance. The board of managers shall be required to obtain and maintain, to the extent obtainable, the following insurance:

(a) Fire insurance with extended coverage, vandalism, and malicious mischief endorsements, insuring the entire building (including all of the units and the fixtures initially installed therein by the Sponsor, but not including furniture, furnishings, or other personal property supplied or installed by unit owners), together with all air-conditioning equipment and other service machinery contained therein; such insurance shall cover the condominium, the board of managers, and all unit owners and their mortgagees, as their interests may appear, in an amount equal to the full replacement value of the building, without deduction for depreciation. Each policy shall contain a standard mortgagee clause in favor of each mortgagee of a unit which shall provide that proceeds shall be payable to such mortgagee as its interest may appear, subject, however, to payment provisions in favor of the board of managers as hereinafter set forth;

(b) Workman's compensation insurance for employees hired by the condominium;

(c) Such other insurance as the board of managers may determine.

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

All such policies of physical damage insurance shall contain provisions agreeable to the board of managers. Prior to obtaining any policy of fire insurance or any renewal thereof, the board of managers shall obtain an appraisal from a fire insurance company or otherwise of the full replacement value of the building, including all of the units and all of the common elements therein, without deduction for depreciation, for the purpose of determining the amount of fire insurance to be effected pursuant to this section.

The board of managers shall also be required to obtain and maintain, to the extent obtainable, public liability insurance in such limits as the board of managers may from time to time determine, covering each member of the board of managers, the managing agent, the manager, and each unit owner. Such public liability coverage shall also cover cross liability claims of one insured against another. The board of managers shall review such limits once each year.

Unit owners shall not be prohibited from carrying other insurance for their own benefit, provided that the liability of the carriers issuing insurance obtained by the board of managers shall not be affected or diminished by reason of any such additional insurance carried by any unit owner.

Section 3. Repair or reconstruction after damage. In the event of damage to or destruction of the building as a result of fire or other casualty (unless 75% or more of the building is destroyed or substantially damaged and 75% or more of the unit owners do not duly and promptly resolve to proceed with repair or restoration), the board of managers shall arrange for the prompt repair and restoration of the building, and the board of managers shall disburse

the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. Any costs of such repair and restoration in excess of the insurance proceeds shall constitute a common expense and the board of managers may assess all the unit owners for such deficit as part of the common charges.

If 75% or more of the building is destroyed or substantially damaged and 75% or more of the unit owners do not duly and promptly resolve to proceed with repair or restoration, the condominium property shall be subject to an action for partition, at the suit of any unit owner or lienor, or if owned in common, in which event the net proceeds of sale, together with the net proceeds of insurance policies (or if there shall have been a repair or restoration pursuant to the first paragraph of this section 3, and the amount of insurance proceeds shall have exceeded the cost of such repair or restoration then the excess of such insurance proceeds) shall be divided by the board of managers or the insurance trustee, as the case may be, among all the unit owners in proportion to their respective common interests, after first paying out of the share of each unit owner the amount of any unpaid liens on his unit, in the order of the priority of such liens.

Section 4. Payment of common charges. All unit owners shall be obligated to pay the common charges assessed by the board of managers pursuant to the provisions of Section I of this Article V at such time or times as the board of managers shall determine.

No unit owner shall be liable for the payment of any part of the common charges assessed against his unit subsequent to a sale,

transfer, or other conveyance by him thereof (made in accordance with the provisions of Section 1 of Article VII of these by-laws). A unit owner may, subject to the conditions specified in these by-laws, and provided that his unit is free and clear of liens and encumbrances other than a permissible first mortgage and the statutory lien for unpaid common charges, convey his unit to the board of managers, or its designee, corporate or otherwise, on behalf of all other unit owners, and in such event be exempt from common charges thereafter assessed. A purchaser of a unit shall be liable for the payment of common charges assessed against such unit prior to the acquisition by him of such unit, except that a mortgagee or other purchaser of a unit at a foreclosure sale of such unit shall not be liable for and such unit shall not be subject to a lien for the payment of common charges assessed prior to the foreclosure sale.

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

Section 6. Default in payment of common charges. In the event of default by any unit owner in paying to the board of managers the assessed common charges, such unit owner shall be obligated to pay interest at the legal rate on such common charges from the due date thereof, together with all expenses, including attorney's fees, incurred by the board of managers in any proceeding brought to collect such unpaid common charges. The board of managers shall have the right

and duty to attempt to recover such common charges, together with interest thereon, and the expenses of the proceeding, including attorney's fees, in an action brought against such unit owner, or by foreclosure of the lien on such unit granted by Utah Code Annotated 57-8-20 (1953) in the manner provided therein.

Section 7. Foreclosure of liens for unpaid common charges.

In any action brought by the board of managers to foreclose a lien on a unit because of unpaid common charges, the unit owner shall be required to pay a reasonable rental for the use of his unit and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect such rental. The board of managers, acting on behalf of all unit owners, shall have power to purchase such unit at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant to, convey, or otherwise deal with the same. A suit to recover a money judgement for unpaid common charges shall be maintainable without foreclosing or waiving the lien securing the same.

Section 8. Statement of common charges. The board of managers shall promptly provide any unit owner, who makes a request, in writing, with a written statement of his unpaid common charges.

Section 9. Abatement and enjoining of violations. The violation of any rule or regulation adopted by the board of managers, or the breach of any by-law contained herein, or the breach of any provisions of the declaration, shall give the board of managers the right, in addition to any other rights set forth in these by-laws: (a) 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 board of managers shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate, or remedy such thing or condition by appropriate legal proceedings.

Section 10. Maintenance and repair. (a) All maintenance of and repairs to any unit, structural or non-structural, ordinary or extraordinary, (other than maintenance of and repairs to any common elements contained therein not necessitated by negligence, misuse, or neglect of the owner of such unit) shall be made by the owner of such unit. Each unit owner shall be responsible for all damages to any other unit and to the common elements resulting from his failure to effect such maintenance and repairs

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

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

(a) The units shall be used in such a manner as to be in harmony with the building and zoning regulations affecting the property.

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

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

(d) No immoral, improper, offensive or unlawful use shall be made of the condominium property or any part thereof, and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be complied with. Such compliance shall be accomplished at the sole expense of the unit owners or the board of managers, whichever shall have the obligation to maintain or repair such portion of the condominium property.

Section 12. Additions, alterations, or improvements by board of managers. Whenever in the judgment of the board of managers the common elements shall require additions, alterations or improvements costing in excess of \$5,000, and the making of such additions, alterations, or improvements shall have been approved by a majority of the unit owners, the board of managers shall proceed with such additions, alterations or improvements and shall assess all unit owners for the cost thereof as a common charge. Any additions, alterations, or improvements costing \$5,000 or less may be made by the board of managers without approval of the unit owners or any mortgagees

of units and the cost thereof shall constitute a common charge.

Section 13. Additions, alterations, or improvements by unit owners. No unit owner shall make any structural addition, alteration, or improvement in or to his unit, without the prior written consent thereto of the board of managers. The board of managers shall have the obligation to answer any written request by a unit owner for approval of a proposed structural addition, alteration, or improvement in such unit owner's unit, within 30 days after such request, and failure to do so within the stipulated time shall constitute a consent by the board of managers to the proposed addition, alteration, or improvement. Any application to any governmental authority for a permit to make an addition, alteration, or improvement in or to any unit shall be executed by the board of managers. The board of managers shall not be liable to any contractor, subcontractor, or materialman or to any person sustaining personal injury or property damage, for any claim arising in connection with such addition, alteration, or improvement.

Section 14. Use of common elements and facilities. A unit owner shall not place any furniture, packages, or objects in the public halls, stairways, elevators, or other common areas or common facilities, except in an area designated as a storage area. The public halls, stairways, and elevators shall be used for no purpose other than for normal transit. The common elements consist of the entire condominium property, including all parts of the building other than the units, and including, without limitation, the following:

- (a) The land on which the building is erected;

(b) All foundations, columns, girders, beams and supports, including bearing walls;

(c) All exterior walls of the building not including the portions thereof on the unit side of such walls; all walls and partitions separating units from corridors; elevator shafts, stairs, and mechanical equipment spaces, other than the portions thereof between the unit side of such walls and partitions and any block work of such walls and partitions; the block work of all walls and partitions separating units and containing block work; the portions of the plaster partitions separating units between the center lines of the plaster on each side of such partitions; and all concrete floors and concrete ceilings;

(d) Roofs, halls corridors, lobbies, stairs, stairways, and entrances to and exits from the building;

(e) The janitorial closets, yards, gardens, greens, patios, swimming pool and any other recreational areas and facilities, parking and driveway areas, storage areas which are not designated as "limited common areas" as hereinafter defined and parking stalls which are not assigned for use with specific units.

(f) All space devoted to the use of any persons employed in connection with the operation of the condominium property;

(g) All central and appurtenant installations for services such as power, light, telephone, gas and hot and cold water, (including all pipes, ducts, wires, cables, and conduits used in connection therewith, whether located in

common areas or in units), and all other mechanical equipment spaces;

(h) All elevators, tanks, pumps, motors, fans, compressors, and control equipment;

(i) All sewer pipes;

(j) All other parts of the condominium property and all apparatus and installations existing in the building or on the property for common use or necessary or convenient to the existence, maintenance, or safety of the condominium.

The limited common areas and facilities consist of those portions of the condominium property which are reserved for the use of a certain unit to the exclusion of the other units. The limited common areas and facilities shall include the parking stalls which are assigned for use with specific units and the twenty-four separate storage rooms which are intended to be assigned for use with specific units.

Section 15. Right of access. A unit owner shall grant a right of access to his unit to the manager, the managing agent, and any other person authorized by the board of managers, the manager, or the managing agent, to make inspections; to correct any condition originating in his unit and threatening another unit or a common element; to install, alter, or repair mechanical or electrical services or other common elements in his unit or elsewhere in the building; and to correct any condition which violates the provisions of any mortgage covering another unit. Requests for such entry shall be made in advance and such entry shall be scheduled for a time reasonably convenient to the unit owner. However, in case of emergency, such right of entry shall be immediate, whether the unit owner is present at the time or not.

Section 16. Rules of conduct. Rules and regulations concerning the use of the units and the common elements may be promulgated and amended by the board of managers with the approval of a majority of the unit owners. Copies of such rules and regulations shall be furnished by the board of managers to each unit owner prior to their effective date.

Section 17. Water and sewer charges and refuse removal. Water shall be supplied to all of the units and the common elements and the board of managers shall pay, as a common expense, all charges for water consumed on the condominium property, together with all related sewer costs arising therefrom, promptly after the bills therefor are rendered. The board of managers shall have the authority to contract for the removal of refuse from the condominium. The cost of such refuse removal shall be considered a common expense.

Section 18. Gas. Gas shall be supplied by the public utility company serving the condominium directly to each unit through a separate meter and each unit owner shall be required to pay the bills for gas consumed or used in his unit. The gas serving the common elements, if any, shall be separately metered, and the board of managers shall pay all bills for gas consumed in such portions of the common elements, as a common expense.

Section 19. Electricity. Electricity shall be supplied by the public utility company serving the condominium directly to each unit through a separate meter and each unit owner shall be required to pay the bills for electricity consumed or used in his unit. The electricity serving the common elements shall be separately metered, and the board of managers shall pay all bills for electricity consumed in such portions of the common elements, as a common expense.

Section 20. Pets and children. No pets will be allowed in the condominium and no children under the age of 18 will be allowed in the condominium.

ARTICLE VI

Mortgagees

Section 1. Notice of unpaid common charges. The board of managers, whenever so requested in writing by a mortgagee of a unit, shall promptly report any then unpaid common charges or other default by the owner of the mortgaged unit.

Section 2. Notice of default. The board of managers, when giving notice to a unit owner of a default in paying common charges or other default, shall send a copy of such notice to each holder of a mortgage covering such unit whose name and address has theretofore been furnished to the board of managers.

Section 3. Examination of books. Each unit owner and each mortgagee of a unit shall be permitted to examine the books of account of the condominium at reasonable times, on business days, but not more often than once a month.

ARTICLE VII

Sales and Leases of Units

Section 1. Sales and leases. No unit owner may sell or lease his unit or any interest therein except by complying with the provisions of this section. A unit owner's sale of his unit shall include the sale of (a) the undivided interest in the common elements and limited common elements appurtenant thereto; (b) the interest of such unit owner in any units theretofore acquired by the board of managers, or its designee, on behalf of all unit

owners, or the proceeds of the sale or lease thereof, if any; and (c) the interest of such unit owner in any other assets of the condominium, hereinafter collectively called the "appurtenant interest".

Any unit owner who receives a bona fide offer for the sale or lease of his unit, hereinafter called an "outside offer", which he intends to accept, shall give notice to the board of managers of such offer and of such intention, the name and address of the proposed purchaser or lessee, the terms of the proposed transaction and such other information as the board of managers may reasonably require, and shall offer to sell or to lease such unit, to the board of managers, or its designee, corporate or otherwise, on behalf of the owners of all other units, on the same terms and conditions as contained in such outside offer. The giving of such notice shall constitute a warranty and representation by the unit owner who has received such offer, to the board of managers on behalf of the other unit owners that such unit owner believes the outside offer to be bona fide in all respects. Within 30 days after receipt of such notice, the board of managers may elect, by notice to such unit owner, to purchase or to lease such unit, as the case may be, (or to cause the same to be purchased or leased by its designee, corporate or otherwise), on behalf of all other unit owners, on the same terms and conditions as contained in the outside offer and as stated in the notice from the unit owner. In the event the board of managers shall elect to purchase or to lease such unit, or to cause the same to be purchased or leased by its designee, corporate or otherwise, title shall close at the office of the

attorneys for the condominium 45 days after the giving of notice by the board of managers of its election to accept such offer. At the closing, the unit owner, if such unit is to be sold, shall convey the same to the board of managers, or to its designee, on behalf of all other unit owners, by deed in the form required by Utah Code Annotated 57-9-11 (1953). In the event such unit is to be leased, the offering unit owner shall execute and deliver to the board of managers, or to its designee, a lease between the unit owner, as landlord, and the board of managers, or its designee, as tenant, covering such unit, on the terms and conditions contained in such outside offer. In the event the board of managers or its designee shall fail to accept such offer within 30 days, the unit owner shall be free to contract to sell or to lease such unit, as the case may be, to the outside offeror within 60 days after the expiration of the period in which the board of managers or its designee might have accepted such offer, on the terms and conditions set forth in the notice from the unit owner to the board of managers of such outside offer. Any deed to an outside offeror shall provide that the acceptance thereof by the grantee shall constitute an assumption of the provisions of the declaration, the by-laws and the rules and regulations, as the same may be amended from time to time. Any lease to an outside offeror shall be consistent with these by-laws and shall provide that it may not be modified, amended, extended, or assigned, without the prior consent in writing of the board of managers; that the tenant shall not sublet the demised premises, or any part thereof, without the prior consent in writing of the board of managers; and that the board of managers shall have power to terminate

such lease and to bring summary proceedings to evict the tenant in the name of the landlord thereunder; in the event of default by the tenant in the performance of such lease. In the event the offering unit owner shall not, within such 60-day period, contract to sell or to lease such unit, as the case may be, to the outside offeror on the terms and conditions contained in the outside offer, or if such a contract is entered into but not fulfilled, then the unit owner shall be required to again comply with all of the terms and provisions of this section in order to sell or to lease the unit.

Any purported sale or lease of a unit in violation of this section shall be voidable at the election of the board of managers.

Section 2. Consent of unit owners to purchase or lease by board of managers. The board of managers shall not exercise any option hereinabove set forth to purchase or lease any unit without the prior approval of a majority of the unit owners.

Section 3. No severance of ownership. No unit owner shall execute any deed, mortgage, or other instrument conveying or mortgaging title to his unit without including therein the appurtenant interests, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage, or other instrument purporting to affect one or more of such interests without including all such interests, shall be deemed and taken to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or described therein. No part of the appurtenant interests of any unit may be sold, transferred, or otherwise disposed of, except as a part of a sale, transfer, or other disposition of the unit to which such interest are appurtenant, or as a part of a sale, transfer,

or other disposition of such part of the appurtenant interests of all units.

Section 4. Release by board of managers of right of first refusal. The right of first refusal contained in Section 1 of this Article VII may be released or waived by the board of managers, in which event the unit may be sold, conveyed, or leased, free and clear of the provisions of such section.

Section 5. Certificate of termination of right of first refusal. A certificate, executed and acknowledged by the secretary-treasurer of the condominium, stating that the provisions of Section 1 of this Article VII has been met by a unit owner, or have been duly waived by the board of managers, and that the rights of the board of managers thereunder have terminated, shall be conclusive upon the board of managers and the unit owners in favor of all persons who rely thereon in good faith. Such certificate shall be furnished to any unit owner who has in fact complied with the provisions of Section 1 of this Article VII or in respect to whom the provisions of such section have been waived, upon request.

Section 6. Financing of purchase of units by board of managers. Acquisition of units by the board of managers, or its designee, on behalf of all unit owners, may be made from the working capital and common charges in the hands of the board of managers, or if such funds are insufficient, the board of managers may levy an assessment against each unit owner in proportion to his ownership in the common elements, as a common charge, which assessment shall be enforceable in the same manner as provided in Sections 6 and 7 of Article V. Alternatively, the board of managers may borrow money to finance the acquisition of such unit, provided, however, that no financing may be secured by an encumbrance or hypothecation

of any property other than the unit so to be acquired by the board of managers.

Section 7. Exections. The provisions of Section 1 of this Article VII shall not apply with respect to any sale or conveyance by a unit owner of his unit to his spouse or to any of his children or to his parent or parents or to his brothers or sisters, or any one or more of them, or to the acquisition or sale of a unit by a mortgagee herein authorized who shall acquire title to such unit by foreclosure or by deed in lieu of foreclosure. However, the provisions of such section shall apply with respect to any purchaser of such unit from such mortgagee.

Section 8. Gifts and devises, etc. Any unit owner shall be free to convey or transfer his unit by gift, or to devise his unit by will, or to pass the same by intestacy, without restriction.

Section 9. Waiver of right of partition with respect to units acquired by board members. In the event that a unit shall be acquired by the board of managers, or its designee on behalf of all unit owners as tenants in common, all such unit owners shall be deemed to have waived all rights of partition with respect to such unit.

Section 10. Payment of assessments. No unit owner shall be permitted to convey, mortgage, pledge, hypothecate, sell or lease his unit unless and until he shall have paid in full to the board of managers all unpaid common charges theretofore assessed by the board of managers against his unit and until he shall have satisfied all unpaid liens against such unit, except permitted mortgages.

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ARTICLE VIII

Condemnation

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

ARTICLE IX

Records

Section 1. Records and audits. The board of managers or the managing agent shall keep detailed records of the actions of the board of managers and the managing agent, minutes of the meetings of the board of managers, minutes of the meetings of the unit owners, and financial records and books of account of the condominium, including a chronological listing of receipts and expenditures, as well as a separate account for each unit which,

among other things, shall contain the amount of each assessment of common charges against such unit, the date when due, the amounts paid thereon, and the balance remaining unpaid. A written report summarizing all receipts and expenditures of the condominium shall be rendered by the board of managers to all unit owners at least annually. In addition, an annual report of the receipts and expenditures of the condominium, certified by an independent certified public accountant, shall be rendered by the board of managers to all unit owners and to all mortgagees of units who have requested the same, promptly after the end of each fiscal year.

ARTICLE X

Miscellaneous

Section 1. Notices. All notices to the board of managers shall be sent by registered or certified mail, c/o the managing agent, or if there is no managing agent, to the office of the board of managers or to such other address as the board of managers may hereafter designate from time to time. All notices to any unit owner shall be sent by registered or certified mail to the building or to such other address as may have been designated by him from time to time, in writing, to the board of managers. All notices to mortgagees of units shall be sent by registered or certified mail to their respective addresses, as designated by them from time to time, in writing, to the board of managers. All notices shall be deemed to have been given when mailed, except notices of change of address which shall be deemed to have been given when received.

Section 2. Invalidity. The validity of any part of these by-laws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these by-laws.

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

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

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

ARTICLE XII

Conflicts

Section 1. Conflicts. These by-laws are set forth to comply with the requirements of Utah Code Annotated 47-8-1 et seq (1953). In case any of these by-laws conflict with the provisions of such statute or of the declaration, the provisions of such statute or of the declaration, as the case may be, shall control.