

CONDOMINIUM DECLARATION  
FOR  
RED PINE CHALETS  
PHASE FOUR

THIS DECLARATION is made and executed by PARK WEST DEVELOPMENT CORP., a Utah corporation, pursuant to the provisions of the Utah Condominium Ownership Act, Utah Code Annotated #57-8-1 through 57-8-36 as amended from time to time, for itself, its successors, grantees and assigns.

ARTICLE I

RECITALS

Declarant is the sole owner of that certain real property in Summit County, Utah, which is described in Exhibit "A" attached hereto and made a part by this reference.

There will be constructed certain buildings and improvements thereon in accordance with the plans and drawings, set forth in the Record of Survey Map filed concurrently herewith, consisting of two sheets; prepared by Alliance Engineering, Inc., and certified by Duncan J. Silver, a registered land surveyor.

Declarant desires by filing this Declaration and the aforesaid Record of Survey Map to submit the above described real property and the said buildings and other improvements constructed thereon to the provisions of the Utah Condominium Ownership Act as a Condominium Project known as RED PINE CHALETS, PHASE FOUR.

Declarant desires and intends to sell the fee title to the individual Units contained in said Condominium Project, together with the undivided ownership interest in the Common Areas and Facilities appurtenant thereto, to various purchasers, subject to the covenants, limitations, and restrictions contained herein.

NOW, THEREFORE, for such purposes, Declarant hereby makes the following Declaration containing covenants, conditions and restrictions relating to this Condominium Project which pursuant to the provisions of the Condominium Ownership Act of the State of Utah, shall be enforceable equitable servitudes, where reasonable, and shall run with the Land.

Entry No. 186198 Book 14204	
RECORDED 12-1-81 at 11:46 AM Page 346-85	
REQUEST of ASSOCIATED TITLE COMPANY	
FEE \$ 49.00	WADIA Y. SPRINGS, SUMMIT CO. RECORDER BY <i>Wadia Y. Springs</i>
INDEXED	
ABSTRACT	

BOOK 14204 PAGE 346

49.00

## ARTICLE II

### DEFINITIONS

#### 1. Name

The name by which the Condominium Project shall be known is the name set forth in the third paragraph of Article I hereof.

#### 2. Definitions

The terms used herein shall have the meaning stated in the Utah Condominium Ownership Act and as given in this Section 2.

(a) The word "Declarant" shall mean Park West Development Corp., a Utah corporation, which has made and executed this Declaration, and/or any successor to such corporation which, either by operation of law or through a voluntary conveyance, transfer or assignment, comes to stand in the same relation to the Project as did its predecessor.

(b) The word "Act" shall mean and refer to Utah Condominium Ownership Act, Utah Code Annotated 1953, Section 57-8-1 through 57-8-36 as the same now exists and as it may be amended from time to time.

(c) The words "Condominium Unit" shall mean and refer to a single Unit in this Condominium Project together with an undivided interest in common with other unit owners in the Common Areas and Facilities of the Property.

(d) The word "Declaration" shall mean this instrument by which the within described Project is established as a Condominium.

(e) The word "Property" shall mean and include the land, described in Article I, the buildings, all improvements and structures thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

(f) The word "Condominium Project", or sometimes "Condominium" or the "Project" shall mean and refer to the entire Property, as defined above, together with all rights, obligations and organizations established by this Declaration.

(g) The word "Map" shall mean and refer to the Record of Survey Map of the Project recorded herewith by Declarant.

(h) The word "Unit" shall mean and refer to one of the Condominium Units, which is designated as a Unit on the Map, and

more particularly described in Section V (c) hereof.

(i) The words "Unit Owner" or "Owner" shall mean the entity, person or persons owning a Unit in the Condominium Project in fee simple and an undivided interest in the fee simple estate of the Common Areas and Facilities as shown in the records of the County Recorder of Summit County, Utah. The term Unit Owner or Owner shall not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until such a party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

(j) The words "Association of Unit Owners" or "Association" shall mean and refer to all of the Unit Owners taken as, or acting as, a group in accordance with the Declaration and Bylaws attached hereto as Exhibit "B", which Bylaws are hereby incorporated herein.

(k) The words "Unit Number" shall mean and refer to the letter, number or combination thereof designating the Unit in the Declaration and in the Map.

(l) The words "Management Committee" or "Committee" shall mean and refer to the committee as provided in the Declaration and the Bylaws hereto attached as Exhibit "B". Said Committee is charged with and shall have the responsibility and authority to make and to enforce all of the reasonable rules and regulations covering the operation and maintenance of the Project.

(m) The term "Manager" shall mean and refer to the person, persons or corporation selected by the Management Committee to manage the affairs of the Condominium Project.

(n) The term "Common Areas and Facilities" shall mean and refer to:

(1) The land described on Exhibit "A" attached;

(2) That portion of the Property not specifically included in the respective Units as defined herein or on the Map;

(3) All foundations, columns, girders, beams, supports, mainwalls, roofs, halls, corridors, stairs, stairways, recreational areas, yards, gardens, fences, service and parking areas in general, all other apparatus, installations and other parts of the Property necessary or convenient to the existence, maintenance and safety of the foregoing or normally in common use;

(4) Those areas specifically set forth and designated in the Map as "Common Area" or "Limited Common Area"; and

(5) All Common Areas and Facilities as defined in the Act, whether or not expressly listed herein.

(o) The words "Common Expenses" shall mean and refer to: all expenses of administration, maintenance, repair or replacement of the Common Areas and Facilities; all items, things and sums described in the Act which are lawfully assessed against the Unit Owners in accordance with the provisions of the Act, this Declaration, the Bylaws, such rules and regulations pertaining to the Condominium Project as the Association of Unit Owners or the Management Committee may from time to time adopt; and other expenses incurred pursuant to agreement lawfully made and/or entered into by the Management Committee.

(p) The words "Limited Common Area" shall mean and refer to those portions of the Common Areas and Facilities reserved for the exclusive use of certain Unit Owners, as specified herein. The Limited Common Areas shall be designated parking spaces as indicated on the Map and on Exhibit "C" attached hereto and by reference incorporated herein, as well as the decks, porches and balconies that are adjacent to, contiguous with and open into the Units, as more particularly identified on the Map. The use and occupancy of the Limited Common Areas shall be reserved to its associated Unit, and each Unit Owner is hereby granted an irrevocable license to use and occupy the same so long as such Owner owns the Unit associated with such Limited Common Area.

(q) The words "Utility Services" shall include, but not be limited to, water, electric power, trash collection, sewage disposal and natural gas.

(r) The word "Mortgage" shall mean and include both a mortgage and a deed of trust on any Condominium Unit. The words "First Mortgage" shall mean a mortgage, the lien of which is prior and superior to the lien of any other mortgage on the same Unit.

(s) The word "Mortgagee" shall mean and include both the mortgagee under a mortgage and the beneficiary under a deed of trust on any Condominium Unit. The words "First Mortgagee" shall mean the Mortgagee under a First Mortgage on any Unit.

(t) Those definitions contained in the Act, to the extent they are applicable hereto and not inconsistent herewith, shall be and are hereby incorporated herein by reference and shall have the same effect as if expressly set forth herein and made a part hereof.

### ARTICLE III

#### SUBMISSION TO CONDOMINIUM OWNERSHIP

Declarant hereby submits the Property to the provisions of the Act as a Condominium Project and this Declaration is

submitted in accordance with the terms and the provisions of the Act and shall be construed in accordance therewith. It is the intention of Declarant that the provisions of the Act shall apply to the Property.

#### ARTICLE IV

##### CONVENTIONS TO RUN WITH THE LAND

This Declaration contains covenants, conditions and restrictions relating to the Project which are and shall be enforceable equitable servitudes which shall run with the land and be binding upon Declarant, its successors and assigns and upon all Unit Owners or subsequent Unit Owners, their grantees, mortgagees, successors, heirs, personal representatives, devisees and assigns.

#### ARTICLE V

##### DESCRIPTION OF PROPERTY

(a) Description of Land. The land is that tract or parcel in Summit County, Utah more particularly described in Article I of this Declaration.

(b) Description of Improvements. The buildings will be constructed by the Declarant and will be in accordance with the information contained in the Map. They will consist of two buildings containing a total of 16 Units. The buildings will be of wood frame construction on concrete pads, with board exterior. All units will have electric appliances and electric heating. Electricity is separately metered to each unit. Water and sewage disposal will be separately billed and will not be common area expenses. Each Unit has a separate electric water heater. The Project will be subject to the easements which are reserved through the Project and as may be required for Utility Services.

(c) Description and Legal Status of Units. The Map and Exhibit "C" hereto show the Unit Number of each Unit, its location, and the Common Areas and Facilities to which it has access. All Units shall be capable of being independently owned, encumbered and conveyed. Each 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:

(1) The upper boundary shall be the plane of the lower surface of the ceiling,

(2) the lower boundary shall be the plane of the upper surface of the floor; and

(3) the vertical boundaries of the Unit shall be

(a) the interior surface of the outside walls of the building;  
(b) the center line of any non-bearing interior walls bounding the Unit; and (c) the interior surface of any interior bearing walls bounding the Unit.

(d) Description of Common Areas and Facilities. Except as otherwise in this Declaration provided, the Common Areas and Facilities shall consist of the areas and facilities described in the definitions and constitute in general all of the 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:

(1) all structural parts of the buildings including, without limitation, foundations, columns, joists, beams, supports, supporting walls, floors, ceilings and roofs;

(2) driveways, parking areas, lawns, shrubs, entrance ways, exterior stairways, and service areas.

(3) any utility pipe or line or system servicing more than a single Unit, and all ducts, wires, conduits, and other accessories used therewith;

(4) all other parts of the Property necessary or convenient to its existence, maintenance and safety, or normally in common use, or which have been designated as Common Areas and Facilities in the Map;

(5) all repairs and replacements of any of the foregoing.

## ARTICLE VI

### ALTERATIONS

Declarant reserves the right to change the interior design and interior arrangement of any Unit and to alter the boundaries between Units, so long as the Declarant owns the Units so altered. Any such change of the boundaries between Units and any resulting alteration of Common Areas shall be reflected by an amendment of this Declaration and of the Map which may be executed by the Declarant alone, notwithstanding the procedures for amendment described in Article XXVIII of this Declaration. However, no such change shall increase the number of Units nor materially alter the boundaries of the Common Areas and Facilities nor change the percentage of ownership of Common Areas and Facilities allocated to the unaltered Units without amendment of this Declaration and of the Map in the manner described in Article XXVI of this Declaration. If the boundaries between Units are altered, in the amendment related thereto the Declarant shall reapportion the percentage of ownership in the Common Areas and Facilities which are allocated to the altered Units on the basis of the change in floor space which results from the

boundary alteration.

## ARTICLE VII

### STATEMENT OF PURPOSE AND RESTRICTION ON USE

(a) Purpose. The purpose of the Condominium Project is to provide recreational housing space for Unit Owners, their families, guests and lessees and to provide parking and recreational space for use in connection therewith, all in accordance with the provisions of the Act.

(b) Restrictions on Use. The Units and Common Areas and Facilities shall be used and occupied only as hereinafter set forth:

(1) No Unit shall be occupied at any time as the primary or principal residence (as defined in Article XXXIV) of any individual (owner, guest or tenant) even on a temporary basis because culinary water approval for the Project was obtained upon the representation that no Unit would be so used.

(2) No pets or animals of any kind shall be allowed in any Unit or on any of the Common Areas in the Project without the prior written consent of the Management Committee.

(3) Except as otherwise provided herein, no businesses shall be operated in or from any Unit other than the rental of such Unit. Parking stalls shall be used only for the parking of operable motor vehicles which belong to a person occupying a Unit during the time the stall is used and for no other purpose. No vehicle or other personal property shall be left on any sidewalk or landscaped area at any time nor on the balance of the Common Areas for more than 72 hours at a time without permission of the Management Committee. The Common Areas and Facilities shall be used only for the purpose for which they are intended.

(4) Except as provided in Article XXVIII hereof, no sign of any kind shall be displayed to the public view on or from any residential Unit or the Common Areas unless it is for the common benefit of all Unit Owners, and approved by the Management Committee. The Management Committee reserves the right to remove any non-approved signs and to enter a Unit to do so, if necessary.

(5) Nothing shall be done or kept in any Unit or in the Common Areas and Facilities which will increase the rate of insurance on the buildings, or the contents thereof, without the prior written consent of the Management Committee. No Unit Owner shall permit anything to be done or kept in his Unit or in the

Common Areas and Facilities which is in violation of any law or regulation of any governmental authority. The Common Areas, porches, balconies and sidewalks, shall be kept free and clear of all rubbish, debris and other unsightly materials. Firewood on porches or balconies is acceptable. Barbecues, chairs, tables, etc., shall not left more than 24 hours while the Unit is not occupied by the Owner thereof, and may be removed by the Management Committee.

(6) No Unit Owner shall cause or permit anything (including, without limitation, an awning, canopy, shutter, storm door or screen door) to hang, be displayed, be visible or otherwise be placed on the exterior walls or roof of any building or any part thereof, or on the outside of windows or doors, without the prior written consent of the Management Committee.

(7) No noxious or offensive activity shall be carried on in any Unit or in the Common Areas and Facilities, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Unit Owners or occupants.

(8) Nothing shall be done in any Unit or in, on, or to the Common Areas and Facilities which will impair the structural integrity of the buildings or any part thereof or which would structurally change the buildings or any part thereof except as is otherwise provided herein.

(9) No admission fees, charges for use, leases or other income-generating arrangement of any type shall be employed or entered into without respect to any portion of the Common Areas and Facilities without the prior written consent of the Management Committee.

## ARTICLE VIII

### PERSON TO RECEIVE SERVICE OF PROCESS

The person to receive service of process in the cases provided herein or in the Act is J. E. Roberts, whose address is Unit 24-A, Park West Condominiums, Summit County, Utah. The said person may be changed by the recordation by the Management Committee of an appropriate instrument.

## ARTICLE IX

### OWNERSHIP AND USE

(a) Ownership of a Unit. Except with respect to any of the Common Areas and Facilities located within the bounds of a Unit, each Unit Owner shall be entitled to the exclusive ownership and possession of his Unit and to the ownership of an undivided interest in the Common Areas and Facilities in the percentage expressed in Exhibit "C".

(b) Nature of and Restrictions on Ownership and Use. Each Unit Owner shall have and enjoy the rights and privileges of fee simple ownership of his Unit. There shall be no requirements concerning who may own Units, it being intended that they may and shall be owned as any other property rights by persons, corporations, partnerships, or trusts and in the form of common or joint tenancy as long as no Unit is owned by more than eight persons, couples or entities. Owners may lease or rent their Units with their appurtenant rights subject to terms and conditions chosen solely by the Unit Owner and his lessee, except that all Unit Owners, their tenants and other occupants or users of the Project, shall be subject to the Act, this Declaration (specifically including Section VII (b) (1) hereof), the Bylaws, and all rules and regulations of the Association of Unit Owners and Management Committee.

(c) Prohibition against Subdivision of Unit. Except as provided in Article VI above, no Unit Owner, by deed, plat or otherwise, shall subdivide or in any manner cause his Unit to be separated into physical tracts or parcels smaller than the whole Unit as shown on the Map, nor shall any Unit Owner cause, suffer or permit the ownership of a Unit to be separated or divided into annually recurring or any other time periods for which the Unit will be separately owned.

(d) Ownership of Common Areas and Facilities. The Common Areas and Facilities contained in the Project are described and identified in Article V (d) of this Declaration. Said Common Areas and Facilities shall be owned by the Unit Owners as tenants-in-common. No percentage of undivided ownership interest in the Common Areas and Facilities shall be separated from the Unit to which it appertains; and even though not specifically mentioned in the instrument of transfer, such a percentage of undivided ownership interest shall automatically accompany the transfer of the Unit to which it relates.

(e) Use of Common Areas and Facilities. The Common Areas and Facilities shall be used only in a manner which is consistent with their community nature and with the use restrictions applicable to the Units contained in the Project, subject to this Declaration, the Bylaws and the Rules and Regulations promulgated from time to time by the Management Committee as authorized by the By-Laws. This right of use shall be appurtenant to and run with each Unit.

(f) Computation of Undivided Interest. The percentage of undivided ownership interest in the Common Areas and Facilities which is appurtenant to each unit has been computed by determining the ratio between the square feet of floor space contained in such Unit (as set forth in Exhibit "C") and the aggregate square footage of all Units in the Project (with such minor adjustments in some or all of the resulting percentage

interests as may have been necessary to assure that the total undivided interest respecting the Project equals 100%). A Unit Owner's percentage of ownership interest in the Common Areas and Facilities shall be the same for all purposes, including voting and assessment of common expenses.

#### ARTICLE X

##### LIMITED COMMON AREAS

Each Unit Owner shall be entitled to the exclusive use and occupancy of the Limited Common Areas assigned to his Unit as set forth in Exhibit "C", and/or as shown on the Map, subject, however, to the same restrictions on use which apply generally to the Common Areas and Facilities and to Rules and Regulations to be promulgated by the Management Committee as authorized in the Bylaws. Such right to use the Limited Common Areas shall be appurtenant to and contingent upon ownership of the Unit associated therewith, and even though not specifically mentioned in the instrument of transfer, shall automatically pass to the grantee or transferee of such Unit. Such right of use shall not be revocable, nor may it be voluntarily or involuntarily relinquished, waived or abandoned.

#### ARTICLE XI

##### EXTERIOR WINDOWS

Without the consent of the Management Committee, no Unit Owner shall install any window treatment which shows through to the outside unless such treatment is of one solid color and unless that color is white, off-white or beige.

#### ARTICLE XII

##### VOTING - MULTIPLE OWNERSHIP

The vote attributable to and exercisable in connection with a Unit shall be the percentage of undivided ownership interest in the Common Areas and Facilities which is appurtenant to such Unit. In the event there is more than one Owner of a particular Unit, the vote relating to such Unit shall be exercised as such Owners may determine among themselves. A vote cast at any meeting by any of such Owners shall be conclusively presumed to be the vote attributable to the Unit concerned unless an objection is immediately made by another Owner of the same Unit. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

## ARTICLE XIII

### MANAGEMENT

(a) Management Committee. The business, property and affairs of the Condominium Project shall be managed, operated and maintained by the Management Committee as agent for the Unit Owners. The Management Committee shall, in connection with its exercise of any of the powers delineated in paragraphs (1) through (9) below, constitute a legal entity capable of dealing in its own name. The Management Committee shall have, and is hereby granted, the following authority and powers:

(1) the authority, without the vote or consent of the Unit Owners or of any other person(s), to grant or create on such terms as it deems advisable, utility and similar easements, over, under, across and through the Common Areas and Facilities;

(2) the authority to execute and record, on behalf of all Unit Owners, any amendment to the Declaration or Map which has been approved by the vote or consent necessary to authorize such amendment;

(3) the power to sue;

(4) the authority to enter into contracts which in any way concern the Project, so long as any vote or consent of the Unit Owners necessitated by the subject matter of the agreement has been obtained;

(5) the power and authority to purchase, otherwise acquire, and accept title to, any interest in real property, so long as such action has been authorized by any vote or consent which is necessary under the circumstances.

(6) the power and authority to add any interest in real property obtained pursuant to paragraph (5) above to the Condominium Project, so long as such action has been authorized by the necessary vote or consent;

(7) the authority to promulgate such reasonable rules, regulations, and procedures as may be necessary or desirable to aid the Committee in carrying out any of its functions or to insure that the project is maintained and used in a manner consistent with the interests of the Unit Owners as well as the authority to impose special assessments or other sanctions on Owners for failure to comply with the provisions of this Declaration or any of the aforesaid rules, regulations, or procedures. If imposed, such special assessments constitute liens upon the affected Unit and notice thereof may be filed and the liens foreclosed in the same manner as liens for non payment of Common Expenses.

(8) the Authority to enter any Unit at any time that it is unoccupied for any legitimate Management Committee purpose; and

(9) the power and authority to perform any other acts and to enter into any other transactions which may be reasonably necessary for the Management Committee to perform its functions as agent for the Unit Owners.

(b) Power and Authority of Management Committee. Any instrument executed by the Management Committee that recites facts, which, if true, would establish the Committee's power and authority to accomplish through such instrument that is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument.

(c) Composition of Management Committee. The Committee shall be composed of five (5) members. At each regular Owners' meeting, Committee members shall be elected for one-year terms. Only Unit Owners and officers and agents of Owners other than individuals shall be eligible for Committee membership. At the annual meeting, the Owner(s) of each Unit shall be entitled to the number of votes determined by multiplying the percentage of undivided ownership interest appurtenant to the Unit times the number of seats to be filled. Said votes may be voted in favor of as many candidates for Committee membership as the Owner(s) desire, or may be cumulated and voted for a lesser number of candidates; provided, however, that for a period of three (3) years after the date on which this Declaration is recorded or until Units to which three fourths (3/4) of the undivided interest in the Common Areas appertain have been sold by Declarant, whichever occurs first, Declarant alone shall be entitled to select three (3) of the five (5) Committee members. Notwithstanding the foregoing limitations, until the first annual meeting of the Owners, the members of the Committee, although numbering less than five (5), shall be the following persons and each shall hold the office indicated opposite his name:

Edwin V. Davis, II, President  
J. E. Roberts, Secretary-Treasurer  
David G. Crittenden, Vice President

Any Committee member who fails on three successive occasions to attend Committee meetings (whether regular or special) or who has not attended at least 75% of all Committee meetings (whether regular or special) held during any twelve-month period shall automatically forfeit his seat. In the event a Committee seat becomes vacant, whether by reason of forfeiture or due to another cause, the remaining Committee members shall elect a replacement to sit on the Committee until the expiration of the terms for which the member being replaced was elected. Unless he forfeits or otherwise loses his seat as herein provided, a member shall serve on the Committee until his successor is elected and

qualified. Committee members shall be reimbursed out of common expense assessments for all expenses reasonably incurred in connection with Committee business, but shall receive no additional compensation for their services as Committee members.

(d) Responsibility. The Management Committee shall be responsible for the control, operation and management of the Project in accordance with the provisions of the Act, this Declaration, such administrative, management and operational rules and regulations as it may adopt from time to time as herein provided, and all agreements and determinations lawfully made and entered into by said Committee.

(e) Approval Required. The Management Committee shall not, without the prior favorable vote or the written consent of the Owners of a majority interest in the undivided ownership of the Common Area, have the authority to purchase or sell any real property or add any property to the Common Area.

(f) Additional Facilities. The Management Committee shall, subject to any necessary approval, have the authority to provide such facilities, in addition to those for which provision has already been made, as it may deem to be in the best interests of the Unit Owners and to effect the necessary amendment of documents and maps in connection therewith.

(g) Manager. The Committee may carry out through a Project Manager any of its functions which are properly the subject to delegation. Any Manager so engaged may be an individual, partnership or corporation, and shall be an independent contractor and not an agent or employee of the Committee, shall be responsible for managing the Project for the benefit of the Committee and the Unit Owners, and shall, to the extent permitted by law and the terms of the agreement with the Committee, be authorized to perform any of the functions or acts required or permitted hereunder to be performed by the Management Committee itself. Any agreement for professional management of the Project which may be entered into by the Management Committee or the Association shall call for a term not exceeding three (3) years and shall provide that such management agreement may be terminated by the Management Committee or by the Association upon not in excess of ninety (90) days' written notice.

#### ARTICLE XIV

##### EASEMENTS

(a) Each Unit shall be subject to such easements as may be necessary for the installation, maintenance, repair or replacement of any Common Areas and Facilities located within the boundaries of such Unit or reasonably accessible only through such Unit.

(b) In the event that, by reason of the construction, reconstruction, settlement or shifting of any part of a building, any part of the Common Areas and Facilities encroaches or shall hereafter encroach upon any part of any Unit or any part of any Unit encroaches or shall hereafter encroach upon any part of the Common Areas and Facilities or any other Unit, valid easements for such encroachment and the maintenance of such encroachment are hereby established and shall exist for the benefit of such Unit and the Common Areas and Facilities, as the case may be, so long as all or any part of the building containing any such Unit shall remain standing; provided, however, that in no event shall a valid easement for any encroachment be created in favor of any Unit Owner or in favor of the Unit Owners as owners of the Common Areas and Facilities if such encroachment occurred due to the willful conduct of such Unit Owner or Owners occurring after the date on which this Declaration is recorded.

#### ARTICLE XV

##### CHANGE IN OWNERSHIP

The Management Committee shall maintain up-to-date records showing the name of each Owner, the address of such Owner, and the Unit which is owned by him. In the event of any transfer of a fee or undivided fee interest in a Unit either the transferor or transferee shall furnish the Management Committee with evidence establishing that the transfer has occurred and that the Deed or other instrument accomplishing the transfer is of record in the office of the County Recorder of Summit County, Utah. The Management Committee may for all purposes act and rely on the information concerning Owners and Unit ownership which is thus acquired by it or, at its option, the Management Committee may act and rely on current ownership information respecting any Unit or Units which is obtained from the office of the County Recorder of Summit County, Utah. The address of an Owner shall be deemed to be the address of the Unit owned by such Owner unless the Management Committee is otherwise advised. An Owner who fails to so furnish the above information shall continue to be liable for monthly assessments of common expenses even after transferring ownership of the Unit.

#### ARTICLE XVI

##### ASSESSMENTS

Every Unit Owner shall pay his proportionate share of the Common Expenses. Payment thereof shall be in such amounts and at such times as the Management Committee determines in accordance with the Act, the Declaration or the Bylaws. There shall be a lien for nonpayment of common expenses as provided in the Act.

In assessing Unit Owners for capital improvements, no assessment for a single improvement in the nature of a capital expenditure exceeding the sum of \$20,000.00 shall be made without the same having been first voted on and approved by at least a majority of the Project's undivided ownership interest.

## ARTICLE XVII

### DESTRUCTION OR DAMAGE

In the event of destruction or damage of part or all of the improvements in the Condominium Project, the procedures of this section shall apply.

(a) If proceeds of the insurance maintained by the Management Committee are alone sufficient to repair or reconstruct the damaged or destroyed improvement, such repair or reconstruction shall be carried out.

(b) If less than 75% of the Project's improvements are destroyed or substantially damaged, and if proceeds of the insurance maintained by the Committee are not alone sufficient to accomplish repair or reconstruction, restoration shall be carried out and all of the Unit Owners shall be assessed for any deficiency on the basis of their respective appurtenant percentages of undivided ownership interest, said assessment becoming a lien on the Units as provided in the Act.

(c) If 75% or more of the Project's improvements are destroyed or substantially damaged, and if proceeds of the insurance maintained by the Management Committee are not alone sufficient to accomplish restoration, and if the Unit Owners within 100 days after the destruction or damage by a vote of at least 75% of the entire undivided ownership interest in the Project elect to repair or reconstruct the affected improvements, restoration shall be accomplished in the manner directed under subsection (b) above.

(d) If 75% or more of the Project's improvements are destroyed or substantially damaged, if proceeds of the insurance maintained by the Committee are insufficient to accomplish restoration, and if the Unit Owners do not, within 100 days after the destruction or damage and by a vote of at least 75% of the entire undivided ownership interest in the Project, elect to repair or reconstruct the affected improvements, the Management Committee shall promptly record with the Summit County Recorder a notice setting forth such facts. Upon the recording of such notice the provisions of subsections (1) through (4) of Section 57-8-31, Utah Code Annotated (1953), shall apply and shall govern the rights of all parties having an interest in the Project or any of the Units.

(e) Any reconstruction or repair which is required to be carried out by this section shall be accomplished at the instance

and direction of the Management Committee. Any determination which is required to be made by this section regarding the extend of damage to or destruction of Project improvements shall be made as follows:

The Management Committee shall select three appraisers; each appraiser shall independently estimate the percentage of project improvements which have been destroyed or substantially damaged; the percentage which governs the application of the provisions of this section shall be the median of the three estimates.

## ARTICLE XVIII

### TAXES

It is understood that under the Act each Unit, together with its percentage of undivided interest in the Common Areas and Facilities in the Project, is deemed a parcel and subject to separate assessment and taxation by each assessing unit and special district for all types of taxes authorized by law. Each Unit Owner will, accordingly, pay and discharge any and all taxes which may be assessed against his Condominium Unit.

## ARTICLE XIX

### INSURANCE

(a) Hazard Insurance. The Management Committee or Association of Unit Owners shall at all times maintain in force hazard insurance meeting the following requirements:

(1) A multi-peril type policy covering the entire Condominium Project (Units and Common Areas and Facilities) shall be maintained. Such policy shall provide coverage against loss or damage by fire and other hazards covered by the standard extended coverage endorsement and by debris removal, cost of demolition, vandalism, malicious mischief, windstorm, water damage, and such other risks as customarily are covered with respect to condominium projects similar to the Project in construction, location, and use. As a minimum, such policy shall provide coverage on a replacement cost basis in an amount not less than that necessary to comply with any co-insurance percentage specified in the policy, but not less than eighty percent (80%) of the full insurable value of the Project (based upon replacement cost). Such policy shall include an "Agreed Amount Endorsement" or its equivalent, a "Demolition Endorsement" or its equivalent, and if necessary or appropriate, an "Increased Cost of Construction Endorsement" or its equivalent, and a "Contingent Liability from Operation of Building Laws Endorsement" or its equivalent.

(2) If a steam boiler is or comes to be contained in the Project, there shall be maintained boiler explosion

insurance and a broad form policy of repair and replacement boiler and machinery insurance, evidenced by the standard form of boiler and machinery insurance policy. Said insurance shall, as a minimum, provide coverage in the amount of Fifty Thousand Dollars (\$50,000) per accident per location.

(3) If the Project is or comes to be situated in a locale identified by the Secretary of Housing and Urban Development as an area having special flood hazards and the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, a "blanket" policy of flood insurance on the Condominium Project shall be obtained and maintained. The minimum amount of coverage afforded by such policy shall be the lesser of the maximum amount of insurance available under said Act or the aggregate of the unpaid principal balances of the First Mortgages affecting the Units. Such policy shall be in the form of a standard policy issued by members of the National Flood Insurers Association or in the form of a policy which meets the criteria established by the Flood Insurance Administration.

(4) The named insured under each policy required to be maintained by the foregoing items (1), (2) and (3) shall be in form and substance essentially as follows: "The Management Committee and the Association of Unit Owners, or their authorized representative, for the use and benefit of the individual Owners."

(5) Each such policy shall include the standard mortgagee clause (without contribution) which either (1) shall be endorsed to provide that any proceeds shall be paid to the Management Committee or the Association of Unit Owners for the use and benefit of Mortgagees as their interests may appear or (2) shall be otherwise endorsed to fully protect the interests of Mortgagees. In addition, the mortgagee clause shall provide that the insurance carrier shall notify each Mortgagee at least thirty (30) days in advance of the effective date of any reduction in or cancellation of the policy.

(6) Each such policy shall provide that notwithstanding any provision thereof which gives the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable if it is in conflict with any requirement of law or without the prior written approval of the Association.

(b) Fidelity Insurance. The Management Committee or Association shall be authorized to maintain in force fidelity coverage against dishonest acts on the part of managers (and employees of managers), trustees, employees, officers, Committee members, or volunteers responsible for handling funds belonging to or administered by the Management Committee or Association of Unit owners. The fidelity bond or insurance shall name the Association as the obligee or insured and shall be written in an

amount sufficient to afford the protection reasonably necessary, but in no event less than one and one-half times (150%) the Projects's estimated annual operating expenses and reserves. An appropriate endorsement to the policy shall be secured to cover persons who serve without compensation if the policy would not otherwise cover volunteers.

(c) Liability Insurance. The Management Committee or Association of Unit Owners shall at all times maintain in force a comprehensive policy of public liability insurance covering all of the Common Areas and Facilities. Such insurance shall include a "Severability of Interest Endorsement" or its equivalent which shall preclude the insurer from denying the claim of a Unit Owner because of negligent acts of other Owners. The coverage afforded by such public liability insurance shall include protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others, garage-keeper's liability (if applicable), and such other risks as customarily are covered with respect to condominium projects similar to the Project in construction, location, and use. The limits of liability under such insurance shall not be less than \$1,000,000.00 for all claims for personal injury, death and/or property damage arising out of a single occurrence.

(d) General Requirements Concerning Insurance. Each insurance policy maintained pursuant to the foregoing Article XVII Section (a) through (c) shall be written by an insurance carrier which is licensed to transact business in the State of Utah and which has a general policyholder rating of B+ or better and a financial category rating of Class XII or better in Best's Insurance Reports. No such policy shall be maintained where: (1) under the terms of the carrier's charter, bylaws or policy, contributions may be required from, or assessments may be made against, a Unit Owner, a Mortgagee, the Management Committee, the Association of Unit Owners, a Unit, the Common Areas, or the Project; (2) 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; (3) the policy includes any limiting clauses (other than insurance conditions) which could prevent the party entitled from collecting insurance proceeds; or (4) the policy provides that the insurance purchased by the individual Unit Owners or their Mortgagees. Each such policy shall provide that: (a) coverage shall not be prejudiced by any act or neglect of the Unit Owners when such act or neglect is not within the control of the Association of Unit Owners or the Management Committee; (b) coverage shall not be prejudiced by any failure by the Association or Committee to comply with any warranty or condition with regard to any portion of the Project over which the Association and Committee have no control; (c) coverage may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days prior written notice to any and all insureds named therein, including any Mortgagee named as an

insured; and (d) the insurer waives any right of subrogation it might have to any and all claims against the Association, the Management Committee, any Unit Owner, and/or their respective agents, employees or tenants, and any defense it might have based upon co-insurance or upon invalidity arising from acts of the insured. If due to changed circumstances, excessive cost, or any other reason, any of the insurance coverage required to be obtained and maintained under Sections (a) through (c) of this Article XIX cannot reasonably be secured, with respect to such coverage the Association or the Committee shall obtain and maintain such substitute, different or other coverage as may be reasonable and prudent under the circumstances as they exist.

## ARTICLE XX

### PAYMENT OF EXPENSES

(a) Each Unit Owner shall pay the Management Committee his allocated portion of the case requirement deemed necessary by the Management Committee to manage and operate the Condominium Project, upon the terms, at the time, and in the manner herein provided without any deduction on account of any set-off or claim which the Owner may have against the Management Committee or Association. Should any Unit Owner fail to pay any assessment as it becomes due and payable or within fifteen (15) days thereof, the Management Committee may enforce any remedy provided in the Act or otherwise available for collection of such delinquent assessments which may include, but not be limited to (1) the charging of interest on the delinquent assessments; (2) the charging of reasonable late penalties; (3) the filing of liens; (4) the foreclosure of such liens; (5) making all assessments which would be due and payable during the year in which such default occurs due and payable upon such default provided that such an acceleration would not be made until 30 days after the default had occurred.

(b) The cash requirements above referred to for each year, or portion of the year, are hereby defined and shall be deemed to be such aggregate sum as the Management Committee from time to time shall determine, in its judgment, is to be paid by all the Owners of the Condominium Project then in existence to enable the Management Committee to pay all estimated expenses and outlays of the Management Committee to close of such year, growing out of or in connection with the maintenance and operation of such land, buildings, and improvements; which sum may include, among other things, the cost of management, special assessments, fire, casualty, flood, fidelity, public liability and other insurance premiums, common lighting, landscaping and the care of the grounds, rental of recreation facilities, compensation of a recreation director, repairs and renovations to Common Areas and Facilities, snow removal, wages, and utility services (except services which are separately billed or metered to the individual Units by the utility or party furnishing such service), legal and accounting fees, management fees, expenses

and liabilities incurred by the Management Committee under or by reason of this Declaration, the payment of any deficit remaining from the previous period, the creation of a reasonable contingency or other necessary reserve or surplus fund, as well as all other costs and expenses relating to the Condominium Project. The Management Committee may, from time to time, up to the close of the year for which such cash requirements have been so filed or determined, increase or diminish the amount previously fixed or determined for such year. It may include in the cash requirements for any year, any liabilities or items of expense which accrued or became payable in the previous year, or which might have been included therein; and also any sums which the Management Committee deem necessary or prudent to provide a reserve against liabilities or expenses then accrued or thereafter to accrue although not payable in that year.

(c) The portion payable with respect to each Unit in and for each year or for a portion of a year shall be a sum equal to the aggregate amount of such cash requirements for such year, or portion of year, determined as aforesaid, multiplied by the percentage of undivided interest in the Common Areas and Facilities appurtenant to such Unit, as shown in Exhibit "C". Such assessments, together with any additional sums accruing under this Declaration, shall be payable monthly in advance, or in such payments and installments as shall be provided by the Management Committee. The Management Committee has estimated that the Common Area expenses for the first year and the monthly share initially attributable to each Unit will be as set forth on Exhibit C and these estimates will constitute the initial assessment. The first two months of the initial assessment are to be paid by the initial purchaser at the time of purchase. The foregoing is only an estimate, however, and may have to be revised as experience is accumulated.

(d) The Management Committee shall have discretionary powers to prescribe the manner of maintaining and operating the Condominium Project and to determine the cash requirements of the Management Committee to be paid as aforesaid by the Owners under this Declaration. Every such reasonable determination by the Management Committee within the bounds of the Act, and this Declaration shall be final and conclusive as to the Owners, and any expenditures made by the Management Committee, within the bounds of the Act and this Declaration shall be against the Owner be deemed necessary and properly made for such purpose.

(e) If an Owner shall at any time let or sublet his Unit and shall default for a period of one month in the payment of any assessments, the Management Committee may, at its option, so long as such default shall continue, demand and receive from any tenant or subtenant of the Owner occupying the Unit the rent due or becoming due and payment of such rent to the Management Committee shall be sufficient payment and discharge of such tenant or subtenant and the Owner to the extent of the amount so paid.

(f) Each monthly assessment and each special assessment shall be separate, distinct and personal obligations of the Owner(s) of the Unit against which the same is assessed at the time the assessment is made and shall be collectible as such. Suit to recover a money judgment for unpaid common expenses may be maintained without foreclosure or waiving the lien (described hereafter) securing the same. If not paid when due, the amount of any assessment, whether regular or special, assessed to a Unit plus interest at eighteen percent per annum, costs of action and reasonable attorney's fees, shall become a lien upon such Unit upon recordation of a notice of assessment as provided by the Act. The said lien for non-payment of common expenses shall have priority over all other liens and encumbrances, recorded or unrecorded, except only:

(1) tax and special assessment liens on the Unit in favor of any assessing unit, or special district and

(2) encumbrances on the interest of the Unit Owner recorded prior to the date such notice is recorded which by law would be a line prior to subsequently recorded encumbrances.

(g) In any conveyance, except to a mortgagee as hereinafter set forth, the grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee. However, any such grantee shall be entitled to a statement from the Manager or Management Committee setting forth the amounts of the unpaid assessments against the grantor, and such grantee shall not be liable for, nor shall the unit conveyed be subject to a lien for, any unpaid assessments against the grantor in excess of the amount set forth.

(h) A certificate executed and acknowledged by the Manager or Management Committee stating the unpaid common expenses then outstanding with respect to a Unit shall be conclusive upon the Management Committee and the Owners as to the amount of such indebtedness on the date of the certificate, in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any Owner or encumbrancee or prospective Owner or encumbrancee of a Condominium Unit upon request at a reasonable fee initially not to exceed Ten Dollars (\$10.00). Unless the certificate of indebtedness shall be furnished within ten (10) days, all unpaid common expenses which became due prior to the date of making of such request shall be subordinate to the lien or interest held by or obtained by the person making the request. Any encumbrancee holding a lien on a Condominium Unit may pay any unpaid Common Expenses payable with respect to such Condominium Unit and upon such payment that encumbrancee shall have a lien on that unit of the same rank as the lien of his encumbrance for the amounts paid.

(i) Upon payment or other satisfaction of delinquent assessments concerning which a notice of assessment has been recorded the Management Committee shall cause to be recorded in the same manner as the notice of assessment a further notice stating the satisfaction and release of the lien thereof. Such lien for nonpayment of assessment may be enforced by sale by the Management Committee or by a bank or trust company or title insurance company authorized by the Management Committee, such sale to be conducted in accordance with the provisions of the law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any other manner permitted by law. In any foreclosure or sale, the Unit Owner shall be required to pay the costs and expenses of such proceedings including reasonable attorney's fees.

(j) In the event of foreclosure, the Unit Owner shall be required to pay a reasonable rental for the Condominium Unit and the plaintiff in the foreclosure action shall be entitled to the appointment of a receiver to collect the rental without regard to the value of the security. The Management Committee or Manager shall have the power to bid on the Unit at foreclosure or other sale and to hold, lease, mortgage and convey the Unit.

(k) In addition to the foregoing for nonpayment of Common Expenses Assessments the right of the defaulting Unit Owner to vote his share of common area ownership shall be suspended for all purposes until such delinquent assessments, together with costs, expenses and reasonable attorney's fees shall have been paid. During such suspension, any action requiring a stated percentage vote may be taken upon the vote of the stated percentage of non-suspended ownership interests.

## ARTICLE XXI

### MORTGAGEE PROTECTION

(a) From and after the time a Mortgagee makes written request to the Management Committee or the Association of Unit Owners therefor, the Committee or the Association shall notify such Mortgagee in writing in the event that the Owner of the Unit encumbered by the mortgage held by such Mortgagee neglects for a period of thirty (30) or more days to cure any failure on his part to perform any of his obligations under this Declaration.

(b) The lien or claim against a Unit for unpaid assessments or charges levied by the Management Committee or by the Association of Unit Owners pursuant to this Declaration or the Act shall be subordinate to a First Mortgage affecting such Unit. A First Mortgagee who comes into possession of the Unit pursuant to his Mortgage or a deed or assignment in lieu of foreclosure shall take the same free of such lien or claim for unpaid assessments or charges, but only to the extent of assessments or charges which accrue prior to foreclosure of the

Mortgage, exercise of a power of sale available thereunder, or deed or assignment in lieu of foreclosure (except for claims for a pro rata share of such prior assessments or charges resulting from a pro rate reallocation thereof to all Units including the Unit in which the Mortgagee is interested). No assessment, charge, lien or claim which is described in the preceding sentence as being subordinate to a Mortgage or as not a burden to a Mortgagee coming into possession pursuant to his Mortgage or a deed or assignment in lieu of foreclosure shall be collected or enforced by either the Management Committee or the Association from or against a Mortgagee, a successor in title to a Mortgagee, or the Unit affected or previously affected by the Mortgage concerned (to the extent any such collection or enforcement would prejudice the interests of the Mortgagee or successor in title to the Mortgagee interested in such Unit).

(c) Unless all of the Mortgagees of the individual Units have given their prior written approval, neither the Management Committee nor the Association of Owners shall be entitled, by act, omission, or otherwise:

(1) To abandon or terminate the Condominium Project or to abandon or terminate the arrangement which is established by this Declaration and the Record of Survey Map (except as provided in Article XVII hereof in the event of certain destruction or damage);

(2) To partition or subdivide any Unit;

(3) To abandon, partition, subdivide, encumber, diminish, alter the boundaries of, sell or transfer all or any of the Common Areas and Facilities (except for the granting of easements for utilities and similar purposes consistent with the intended use of the Common Areas and except as provided in Article XVII hereof in the event of certain destruction or damage);

(4) To use hazard insurance proceeds resulting from damage to any part of the Condominium Project (whether to Units or to the Common Areas) for purposes other than the repair, replacement, or reconstruction of such improvements, except as provided in Article XVII hereof in the event of certain destruction or damage;

(5) To change the pro rata interests or obligations of any Unit which apply for (a) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards and for (b) determining the pro rata share of ownership of each Unit in the Common Areas, Facilities;

(6) To alter the provisions of Article XIX hereof in such a way as to diminish the insurance protection required to be afforded to the parties designed to be protected thereby, or

to fail to maintain the insurance coverage described therein.

(d) Any Mortgagee shall have the right, at its request and expense and upon reasonable notice, to examine the books and records of the Management Committee, or the Association of Unit Owners, or of the Condominium Project. From and after the time a Mortgagee makes written request to the Management Committee or the Association of Owners therefor, the Committee or the Association shall furnish to such Mortgagee copies of such annual operating reports and other reports or writings summarizing or reflecting the financial position or history of the Condominium Project as may be prepared for distribution to or use by the Committee, the Association, or the Unit Owners.

(e) To the extent the same is reasonably possible and practical and is not consistent with the significant interests of the Association of Unit Owners, the Management Committee and the Association shall establish an adequate reserve to cover the cost of reasonably predictable and necessary major repairs and replacements of the Common Areas and Facilities and shall cause such reserve to be funded by regular monthly or other periodic assessments against the Units rather than by special assessments.

(f) From and after the time a Mortgagee makes written request to the Management Committee or the Association of Unit Owners therefor, the Committee or the Association shall notify such Mortgagee in writing in the event that there occurs any damage or loss to, or taking or anticipated condemnation of: (a) The Common Areas involving an amount in excess of, or reasonably estimated to be in excess of, Ten Thousand Dollars (\$10,000.00); or (b) Any Unit involving an amount in excess of, or reasonably estimated to be in excess of, One Thousand Dollars (\$1,000.00). Said notice shall be given within ten (10) days after the Management Committee or said Association learns of such damage, loss, taking or anticipated condemnation.

(g) In the event another provision or clause of this Declaration deals with the same subject matter as is dealt with in any provision or clause of this Article XXI, the provision or clause which results in the greatest protection and security for a Mortgagee shall control the rights, obligations, or limits of authority as the case may be, applicable to the Management Committee and Association of Unit Owners with respect to the subject concerned.

(h) Except with respect to an alteration of Units pursuant to Article VI hereof, no amendment to this Article XXI which has the effect of diminishing the rights, protection or security afforded to Mortgagees shall be accomplished or effective unless all of the Mortgagees of the individual Units have given their prior written approval to such amendment. Any amendment to this Article XXI shall be accomplished by an instrument executed by the Management Committee and filed for record in the office of the Summit County Recorder. In any such

instrument an officer of the Management Committee shall certify that any prior written approval of Mortgagees required by this Article XXI as a condition to amendment has been obtained.

(i) Nothing contained in this Declaration shall give a Unit Owner, or any other party, priority over any rights of a First Mortgagee pursuant to its Mortgage in the case of a distribution to such Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of Units and/or Common Areas and Facilities.

## ARTICLE XXII

### EMINENT DOMAIN

In the event that eminent domain proceedings are commenced against the Project or any portion thereof, the provisions of S57-8-32.5, Utah Code Annotated (Supp. 1977) shall apply. The Management Committee shall give written notice of such proceedings to all Mortgagees of record. No first lien priority of any Mortgagee shall be diminished or otherwise disturbed by virtue of such proceedings.

## ARTICLE XXIII

### MAINTENANCE

(a) Each Owner of a Unit at his own expense shall keep the interior of such Unit and its equipment and appurtenances in good order, condition and repair in a clean and sanitary condition, and shall do all redecorating and painting which may at any time be necessary to maintain the good appearance of such Unit. Except to the extent that the Management Committee on behalf of all Owners is protected by insurance against such injury, the Unit Owner or shall repair all injury or damages to the Unit, building or buildings caused by the act, negligence or carelessness of the Owner, or that of any tenant or subtenant or any member of the Owner's family or of the family of any tenant or subtenant or any agent, employee or guest of the Owner or his tenant and all such repairs, redecorating and painting shall be of a quality and kind equal to the original work. In addition to decorating and keeping the interior of the Unit in good repair, the Unit Owner shall be responsible for the maintenance or replacement of any heating equipment, hot water equipment or plumbing fixtures that may be in or used exclusively by the Unit. Without the written permission of the Management Committee first had and obtained, an Owner shall not make or permit to be made any structural alteration, in or to the Unit or in or to the exterior of the buildings, and shall not paint or decorate any portion of the exterior of the Unit or of the building in which the Unit is located.

(b) Except as hereinafter provided, the Management Committee shall provide for such maintenance and operation of the

Common Areas and Facilities as may be reasonably necessary to keep them clean, functional, attractive and generally in good condition and repair. The Management Committee shall have no obligation regarding maintenance or care of Units.

#### ARTICLE XXIV

##### RIGHT OF ENTRY

The Management Committee and its duly authorized agents shall have the right to enter any and all of the Units in case of an emergency originating in or threatening such Unit or any other part of the Project, whether or not the Unit Owner or occupant thereof is present at the time. The committee and its duly authorized agents shall also have the right to enter into any and all of said Units at all reasonable times as required for the purpose of making necessary repairs upon the Common Areas and Facilities of the Project or for the purpose of performing emergency installations, alterations or repairs to the mechanical or electrical devices or installations located therein or thereon; provided, however, such emergency installations, alterations or repairs are necessary to prevent damage or threatened damage to other Units in the Project. All Unit Owners shall furnish the Committee with all keys necessary to gain access to their respective Units and shall be liable for any and all damage resulting from their failure to do so.

#### ARTICLE XXV

##### ADMINISTRATIVE RULES AND REGULATIONS

The Management Committee shall have the power to adopt and establish by resolution, such rules, regulations and procedures as it may deem necessary for the maintenance, operation, management and control of the Project. The Committee may, from time to time by resolution, alter, amend and repeal such rules, regulations or procedures. When a copy of any amendment or alteration or provision for repeal of any rule or rules has been furnished to the Unit Owners, such amendment, alteration or provision shall be taken to be a part of such rules. Unit Owners shall at all times obey such rules and see that they are faithfully observed by those persons over whom they have or may exercise control and supervision, it being understood that such rules shall apply and be binding upon all Unit Owners, tenants, subtenants or other occupants of the Units. The Management Committee shall also have the authority to assess special assessments or other suitable sanctions on Owners who fail to comply with any provision of this Declaration or any of the aforesaid rules, regulations and procedures. Such special assessments shall constitute liens upon the Units owned by such Owners, and notice thereof may be filed and the liens foreclosed in the same manner as liens for non-payment of Common Expenses.

## ARTICLE XXVI

### OBLIGATION TO COMPLY HEREWITH

Each Unit Owner, tenants, subtenant or other occupant of a Unit shall comply with the provisions of the Act, this Declaration, the By-laws, and the rules and regulations, all agreements and determinations lawfully made and/or entered into by the Management Committee or the Unit Owners, when acting in accordance with their authority, and any failure to comply with any of provisions thereof shall be grounds for an action by the Management Committee or other aggrieved party for injunctive relief or to recover any loss or damage resulting therefrom, including costs and reasonable attorney's fees; or its option, the Management Committee may impose special assessments or other sanctions in accordance with Article XXV.

## ARTICLE XXVII

### INDEMNIFICATION OF MANAGEMENT COMMITTEE

Each member of the Management Committee shall be indemnified and held harmless by the Association of Unit Owners against all costs, expenses and liabilities whatsoever, including, without limitation, attorney's fees reasonably incurred by him in connection with any proceeding in which he may become involved by reason of his being or having been a member of said Committee; provided, however, the foregoing indemnification shall not apply if the loss, expense or liability involved resulted from the willful misconduct or gross negligence of the member.

## ARTICLE XXVIII

### AMENDMENT

In addition to the amendment provisions contained in Article VI above, but subject to the terms of Article XXI, this Declaration and/or the Map may be amended upon the affirmative vote or approval and consent of not less than 66.66 percent of the undivided interest in the Common Areas and Facilities. Any amendment so authorized shall be accomplished by recordation of an instrument executed by the Management Committee. In said instrument the Committee shall certify that the vote or consent required by this Article XXVIII has occurred. Notwithstanding any other provision contained herein, until occurrence of either of the events referred to in Article XIII, Section (c) hereof, no amendment to the Map or to any provision of this Declaration which has or may have the effect of diminishing or impairing any right, power, authority, privilege, protection or control given to the Declarant (in its capacity as Declarant) herein shall be accomplished or effective unless the instrument through which such amendment is purported to be accomplished is consented to in writing by Declarant.

## ARTICLE XXIX

### CONSENT IN LIEU OF VOTE

In any case in which the Act or this Declaration requires the vote of a stated percentage of the Project's undivided ownership interest for authorization or approval of a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Owners who collectively hold at least the stated percentage of undivided ownership interest. The following additional provisions shall govern any application of this section:

- (a) all necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Owner;
- (b) any change in ownership of a Unit or Commercial Space which occurs after consent has been obtained from the Owner having an interest therein shall not be considered or taken into account for any purpose, and;
- (c) unless the consents of all Owners having an interest in the same Unit or Commercial Space are secured, the consent of none of such Owners shall be effective.

## ARTICLE XXX

### DECLARANT'S SALES PROGRAM

Notwithstanding any other provision of this Declaration, until Declarant ceases to be an Owner, Declarant and its agents shall have the following rights in furtherance of any sales, promotion, or other activities designed to accomplish or facilitate the sale of Unit or Commercial Spaces:

- (a) The right to maintain one sales office and/or one model, either of which may be in Units or on the Common Area. Declarant shall not be limited as to their location but neither shall exceed 1500 square feet in size.
- (b) The right to maintain a reasonable number of promotional, advertising, and/or directional signs, banners or similar devices at any place or places on the Property, but any such device shall be of a size and in a location which is reasonable and customary.

(c) The right to use the Common Areas and Facilities of the Project to entertain prospective purchasers or to otherwise facilitate Unit or Commercial Space sales, provided said use is reasonable as to both time and manner.

(d) The right from time to time to locate or relocate its sales offices, model units, and/or signs, banners or similar devices, but in connection with each such location or relocation shall observe the limitations imposed by the preceding paragraphs of this Article.

#### ARTICLE XXXI

##### LIMITATION ON IMPROVEMENTS BY ASSOCIATION

Until Declarant has sold all of the Unit or Commercial Spaces, neither the Association nor the Management Committee shall, without the written consent of Declarant, make any improvement to or alteration in any of the Common Areas and Facilities, other than such repairs, replacements, or similar matters as may be necessary to properly maintain the Common Areas as they existed at the time the Declaration was recorded.

#### ARTICLE XXXII

##### SEVERABILITY

The invalidity of any one or more phrases, sentences, subparagraphs, paragraphs, sections or articles hereof shall not affect the remaining portions of this instrument nor any part thereof, and in the event that any portion or portions of this instrument should be invalid or should operate to render this instrument invalid, this instrument shall be construed as if such invalid phrase or phrases, sentence or sentences, subparagraph or subparagraphs, paragraph or paragraphs, section or sections, or article or articles had not been inserted.

#### ARTICLE XXXIII

##### DECLARANT'S RIGHTS ASSIGNABLE

All of the rights of Declarant under this Declaration may be assigned or transferred either by operation of law or through a voluntary conveyance, transfer or assignment. Any Mortgage covering all Condominium Units in the Project, title to which is vested in the Declarant, shall, at any given point in time and whether or not such Mortgage does so by its terms, automatically cover, encumber, and include all of the then-unexercised or then unused rights, powers, authority, privileges, protections and controls which are accorded to Declarant (in its capacity as Declarant herein).

## ARTICLE XXXIV

### DEFINITION OF PRIMARY RESIDENCE

The terms "primary residence" or "principal residence" as used in this Declaration are used interchangeably and shall be deemed to include, in addition to any other definitions, any and all of the following situations:

(1) Occupancy by an individual or individuals as their only place of residence.

(2) Any occupancy by the same individual or individuals which exceeds thirty days in duration unless such occupancy is between May 1 and November 1 in any calendar year. For purposes of determining the length of an "occupancy", two or more successive occupancies shall be treated as a single occupancy unless they are separated by a period of non-occupancy of at least thirty days. Use of a Unit by any individual or individuals for purposes of storing clothes, food or similar personal possessions while they are gone, unless such possessions are kept in the owners' lockout closet during such period, shall be deemed to be "occupancy" for purposes of this Article.

## ARTICLE XXXV

### GENDER

The singular, wherever used herein, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

## XXXVI

### WAIVERS

No provision 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.

ARTICLE XXXVII

TOPICAL HEADINGS

The topical headings contained in this Declaration are for convenience only and do not define, limit or construe the contents of the Declaration.

ARTICLE XXXVIII

EFFECTIVE DATE

This Declaration shall take effect upon recording.

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed on its behalf this 30 day of November, 1981.

PARK WEST DEVELOPMENT CORP.

By

J. E. Roberts

J. E. Roberts, President

STATE of UTAH )  
                  : ss  
COUNTY OF SUMMIT )

On this 30<sup>th</sup> day of November, 1981, personally appeared before me J. E. Roberts, who, being by me first duly sworn, did declare that he is President of Park West Development Corp., a Utah corporation, that he signed the foregoing document as such President of the corporation, that said instrument was signed on behalf of and by authority of Park West Development Corp., and J. E. Roberts acknowledged to me that he executed the same.

Notary Public Kenneth Dohal  
Residing at: Summit County, Utah

My Commission expires:

29 JUNE 1985

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPOSED CONDOMINIUM

to be known as

RED PINE CHALETS, PHASE FOUR

Beginning at a point North along the Section Line 273.85 feet from the Southeast Corner of Section 36, Township 1 South, Range 3 East, Salt lake Base and Meridian; and running thence North along said Section line 220.91 feet; thence South 50° West 148.67 feet; thence West 3.0 feet; thence South 38.47 feet; thence South 42° West 52.87 feet; thence North 48° West 126.00 feet; thence South 42° West 25.00 feet; thence South 48° East 150.00 feet; thence North 42° East 24.00 feet; thence South 48° East 46.00 feet; thence East 100.915 feet to the point of beginning.

Contains: 25,010 square feet.

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EXHIBIT "B"

BYLAWS OF RED PINE CHALETS, PHASE FOUR  
A CONDOMINIUM PROJECT

I

IDENTITY

These are the Bylaws of Red Pine Chalets, Phase Four, a Condominium Project, duly made and provided for in accordance with the Act. Any term used herein which is defined in the Declaration to which these Bylaws are appended shall have the meaning ascribed therein.

II

APPLICATION

All present or future owners, tenants, or any other persons who might use the facilities of the Red Pine Chalets, Phase Four, in any manner are subject to the regulations set forth in these Bylaws. The mere acquisition or rental of any of the Units or Commercial Space or parts thereof, or the mere act of occupancy or use of any of said Units or Commercial Space or parts thereof or the Common Areas and Facilities will signify that these Bylaws are accepted, ratified, and will be complied with by said persons.

III

ADMINISTRATION OF CONDOMINIUM PROJECT

1. Place of Meetings. Meetings of the Owners shall be held at such place within the State of Utah as the Management Committee may specify in the notice, except as herein otherwise specified.

2. Annual Meetings. The first annual meeting of the Owners shall be held at the Project on the fourth Saturday in October, 1982. Thereafter, the annual meetings shall be held on such day of each succeeding year; provided, however, that whenever such date falls on a legal holiday, the meeting shall be

held on the next succeeding business day, and further provided that the Management Committee may by resolution fix the date of the annual meeting on such date or at such other place as the Management Committee may deem appropriate.

3. Special Meetings. Special meetings of the Association of Owners may be called at any time by the Management Committee or by Owners who collectively hold at least thirty (30) percent of the total vote. Notice of said meetings shall be delivered not less than ten (10) days prior to the date fixed for said meeting. Such meeting shall be held on the Project or such other place as the Management Committee may specify and the notice thereof shall state the date, time and matters to be considered.

4. Notices. Any notice permitted or required to be delivered as provided herein may be delivered either personally or by registered mail. If delivery is by mail, it shall be deemed to have been delivered 72 hours after a copy of the same has been deposited in the United States Mail, postage prepaid, addressed to the Unit Owner concerned.

5. Quorum. At the meeting of the Unit Owners, the Owners of more than fifty percent (50%) in the aggregate of interest in the undivided ownership of the Common Areas and Facilities shall constitute a quorum for any and all purposes, except in situations in which express provisions require a greater vote in which event a quorum shall be the percentage of interest required for such vote. In the absence of a quorum 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, in person or by proxy, shall constitute a quorum. At any such adjourned meeting held as set forth above, any business may be transacted which might have been transacted at the meeting as originally noticed.

6. Voting. When a quorum is present at any meeting, the vote of the Unit Owners representing more than fifty percent (50%) of the undivided interest present at the meeting either 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 provision of the Declaration or these Bylaws, a greater vote is required, in which case such express provision shall govern and control the decision of such question. All votes may be cast either in person or by proxy. All proxies shall be in writing, and must be of record with the secretary at least two days prior to the meeting at which they are used.

7. Waivers of Notice. 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.

8. Time of Meeting. All meetings shall be held at 7:30 P.M. unless a notice of such meeting is duly delivered specifying a different time.

IV

MANAGEMENT COMMITTEE

1. Powers. The business, property and affairs of the Condominium Project shall be managed and governed by the Management Committee.

2. Election. The Management Committee shall be elected as provided in the Declaration.

3. Vacancies. Vacancies on the Management Committee shall be filled as provided in the Declaration.

4. Regular Meetings. A regular annual meeting of the Management Committee shall be held immediately after the adjournment of each annual meeting of the Unit Owners. Regular meetings, other than the annual meeting, shall or may be held at regular intervals at such places and at such times as either the president or the Management Committee may from time to time designate.

5. Special Meetings. Special meetings of the Management Committee shall be held whenever called by the president, vice president, or by two or more members. By unanimous consent of the Management Committee, special meetings may be held without call or notice at any time or place.

6. Quorum. A quorum for the transaction of business at any meeting of the Management Committee shall consist of a majority of the members of the Management Committee then in office.

7. Compensation. Members of the Management Committee as such, shall not receive any stated salary or compensation; provided that nothing herein contained shall be construed to preclude any member of the Management Committee from serving the Project in any other capacity and receiving compensation therefor.

8. Waiver of Notice. Before or at any meeting of the Management Committee, any member thereof may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the

Management Committee at any meeting thereof shall be waiver of notice by him of the time and place thereof.

9. Adjournments. The Management Committee may adjourn any meeting from day to day or for such time as may be prudent or necessary, provided that no meeting may be adjourned for longer than thirty days.

V

OFFICERS

1. Designation and Election. The principal officers of the Management Committee shall be a president, a vice president, a secretary, and a treasurer, all of whom shall be selected by and from the Management Committee. The Management Committee may appoint an assistant secretary and an assistant treasurer and such other officers as in their judgment may be necessary or desirable. Such election or appointment shall regularly take place at the first meeting of the Management Committee immediately following the annual meeting of the Unit Owners; provided, however, that election of officers may be held at any other meeting of the Management Committee.

2. Other Officers. The Management Committee may appoint such other officers, in addition hereinabove expressly named, as they shall deem necessary, who shall have authority to perform such duties as may be prescribed from time to time by the Management Committee, but membership on the Committee shall not exceed five members.

3. Removal of Officers and Agents. All officers and agents shall be subject to removal, with or without cause, at any time by the affirmative vote of the majority of the then members of the Management Committee.

4. President. The president shall be the chief executive of the Management Committee, and shall exercise general supervision over its property and affairs. He shall sign on behalf of the Condominium Project all conveyances, mortgages and contracts material importance to its business, and shall do and perform all acts and things which the Management Committee may require of him. He shall preside at all meetings of the Unit Owners and the Management Committee. He shall have all of the general powers and duties which are normally vested in the office of the president of a corporation, including, but not limited to, the power to appoint committees from among the members (or otherwise) from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Condominium Project.

5. Vice President. The vice president shall take the place of the president and perform his duties whenever the president shall be absent or unable to act. If neither the president nor the vice president is able to act, the Management Committee shall appoint some other member thereof to do so on an interim basis. The vice president shall also perform such other duties as shall from time to time be prescribed by the Management Committee.

6. Secretary. The secretary shall keep the minutes of all meetings of the Management Committee and of the Unit Owners; he shall have charge of the books and papers as the Management Committee may direct; and he shall in general perform all the duties incident to the office of secretary.

7. Treasurer. The treasurer shall have the responsibility for the funds and securities of the Management Committee and shall be responsible for keeping full and accurate accounts of all receipts of all disbursements in books belonging to the Management Committee. He shall be responsible for the deposit of all monies and all other valuable effects in the name, and to the credit of, the Management Committee in such depositaries as may from time to time be designated by the Management Committee.

8. Compensation. No compensation shall be paid to the officers for their services as officers. No remuneration shall be paid to an officer for services performed by him for the Management Committee in any other capacity, unless a resolution authorizing such remuneration shall have been unanimously adopted by the Management Committee before the services are undertaken.

## VI

### ACCOUNTING

1. Books and Accounts. The books and accounts of the Management Committee shall be kept under the direction of the treasurer and in accordance with the reasonable standard of accounting procedures.

2. Report. At the close of each accounting year, the books and records of the Management Committee shall be reviewed by a person or firm approved by the Unit Owners. Report of such review shall be prepared and submitted to the Unit Owners at or before the annual meeting of the Unit Owners. Provided, however, that a certified audit by a certified public accountant approved by the Unit Owners shall be made if Owners representing at least seventy-five (75) percent of the undivided interest in the Common Areas and Facilities determine to require the same.

3. Inspection of Books. Financial reports, such as are required to be furnished, shall be available at the principal office of the Management Committee for inspection at reasonable times by any Unit Owner.

## VII

### PROJECT RULES

The Management Committee shall have the power to adopt and establish, by resolution, such Project management and operational rules and regulations as it may deem necessary for the maintenance, operation, management and control of the Condominium Project, and the Management Committee may from time to time, by resolution, alter, amend and repeal such rules and regulations. Owners shall at all times obey such rules and regulations and use their best efforts to see that they are faithfully observed by their lessees and the persons over whom they have or may exercise control or supervision, it being clearly understood that such rules and regulations shall apply and be binding upon all Owners of the Condominium Project. Provisions of the Act pertaining to the rules and regulations are incorporated herein by reference and shall be deemed a part hereof. Said Committee shall further have the power to impose such fines and/or penalties as it, in its sole discretion, may deem necessary to enforce any rules or regulations which it shall adopt.

## VIII

### AMENDMENT OF THE BYLAWS

These Bylaws may be altered or amended in the same manner and subject to the same conditions as apply with respect to amendment of the Declaration.

## IX

### OPERATION AND MAINTENANCE OF CONDOMINIUM PROJECT

The Management Committee shall be responsible for the maintenance, control, operation and management of the Condominium Project in accordance with the provisions of the Act, the Declaration under which the Condominium Project was established and submitted to the provisions of the Act, these Bylaws and such rules and regulations as the Association of the Owners may adopt from time to time as herein provided, and all agreements and determinations lawfully made and entered into by the Association of Owners.

X

RULES AND REGULATIONS

Copies of all rules and regulations adopted by the Management Committee shall be mailed to all Unit Owners at least ten days prior to the effective date thereof.

EXHIBIT "C"

The Management Committee's estimate of the Common Expenses (as defined in Section 2 (o) of Article II of the Declaration) for the first year is \$15,360.

Each one bedroom unit will have a Five Percent (5%) interest in the common area and will bear 5% of the common area expenses. The initial monthly assessment of each unit shall be \$64. Each two bedroom unit will have a seven and one-half percent (7½%) interest in the common area and will bear 7½% of the common area expenses. The initial monthly assessment shall be \$96.

EXHIBIT "C"

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