

# 19303

## DECLARATION OF CONDOMINIUM

OF

THREE FOUNTAINS-PROVO

PHASE 1, CONDOMINIUM

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THIS DECLARATION OF CONDOMINIUM of Three Fountains-Provo, Phase 1, Condominium, hereinafter called "Declaration", made on the date hereinafter set forth by Kevin Watts and Myrle Watts, his wife, their successors and assigns, hereinafter collectively referred to as "Declarant", pursuant to the provisions of the Utah Condominium Ownership Act, witnesseth as follows:

WHEREAS, the Declarant is the owner of the following described real property situate in the County of Utah, State of Utah, to-wit:

COMMENCING at a point located East along the Section Line 338.10 feet and South 759.03 feet from the West Quarter corner of Section 18, Township 6 South, Range 3 East, Salt Lake Base and Meridian, and running thence North 20° 30' East 434.25 feet; thence East 278.78 feet; thence South 54.41 feet; thence East 154.00 feet; thence South 57.00 feet; thence East 194.00 feet; thence South 6° 52' East 320.04 feet; thence West 147.31 feet; thence South 0° 08' East 31.01 feet; thence South 89° 52' West 120.0 feet; thence North 0° 08' West 55.00 feet; thence South 89° 52' West 549.74 feet to the point of BEGINNING,

hereinafter referred to as "the Real Property"; and

WHEREAS, the Real Property consists of the land above-described, together with certain residential buildings and certain other improvements heretofore, or hereafter to be, constructed upon said premises; and

WHEREAS, the Declarant has constructed or will construct residential buildings and other improvements upon the Real Property in accordance with the plans and drawings set forth in the Record of Survey Map filed concurrently herewith, consisting of three sheets, prepared and certified by Ralph L. Rollins, Professional Engineer; and

WHEREAS, Declarant desires by filing this Declaration and the aforesaid Record of Survey Map to submit the Real Property and the said buildings and other improvements being constructed or to be constructed thereon to the provisions of the Utah Condominium Ownership Act as a condominium project known as the THREE FOUNTAINS-PROVO, PHASE 1, CONDOMINIUM; and

WHEREAS, Declarant desires and intends to sell the fee title to the individual units contained in said condominium project, together with the undivided ownership interests in the Common Areas and Facilities appurtenant thereto, to various purchasers, subject to the covenants, limitations, ~~and restrictions~~ contained; and

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WHEREAS, Declarant contemplates the construction in the future of additional condominium units of the same general type on adjacent property then owned by it and desires to provide for the expansion of the condominium project to include any such additional units if and when constructed so that such additional units and the initial condominium project shall be treated as integral parts of a single condominium ownership project.

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

1. Definitions. The terms used herein shall have the meaning stated in the Utah Condominium Ownership Act and as follows unless the context otherwise requires:

(a) The term "the Act" shall mean and refer to the Utah Condominium Ownership Act as the same may be amended from time to time;

(b) The term "the Condominium Project" or sometimes "the Project" shall mean and refer to the entire parcel of real property referred to in this Declaration;

(c) The term "Map" shall mean and refer to the Record of Survey Map of THREE FOUNTAINS-PROVO, PHASE 1, CONDOMINIUM, filed for record herewith by Declarant;

(d) The term "Unit Owner" shall mean and refer to the legal owner of a condominium unit and a proportionate share of the Common Areas and Facilities as those terms are defined herein;

(e) The term "Common Areas and Facilities", or simply "the Common Areas", shall mean and refer to:

(1) The above-described land;

(2) Those Common Areas and Facilities specifically set forth and designated as such in the Map;

(3) That part of the condominium project not specifically included in the respective units as hereinafter defined;

(4) All foundations, columns, girders, beams, supports, main walls, roof, exterior walkways, parking areas, service streets, stalls, the Recreation Center, pool, recreational areas and facilities, yards, gardens, fences, storage spaces, all installations of power, light and other utilities to the outlets, and in general all other apparatus, installations and other parts of the property necessary or convenient to the existence, maintenance and safety of the Common Areas or normally in common use;

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

(f) The term "Unit Owners" shall mean and refer to unit owners of the THREE FOUNTAINS-PROVO, PHASE 1, CONDOMINIUM, and of future phases which the Declarant may develop, and including the original purchasers and others who may subsequently become Unit Owners;

(g) The words "Limited Common Areas and Facilities (or sometimes as "Limited Common Areas") mean and include those Common Areas and Facilities provided in the Declaration as reserved for use of a certain Unit to the exclusion of the other Units.

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(h) The term "Property" shall mean and refer to the land, 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;

(i) The term "Unit" or "Units" shall mean and refer to a part of the property intended for any type of independent use as defined in the Act and as designated in the Map;

(j) The term "Common Expenses" shall mean and refer to 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 By-Laws, such rules and regulations pertaining to the Condominium project as the Management Committee may from time to time adopt, and such other determinations and agreements lawfully made and/or entered into by the Management Committee;

(k) The term "Management Committee" shall mean and refer to those persons duly elected thereto by the Unit Owners as provided by the Declaration of the THREE FOUNTAINS-PROVO, PHASE 1, CONDOMINIUM, and future phases as may be developed by the Declarant, in accordance with the By-Laws hereto attached as Exhibit "B", subject to the provisions of paragraph 8 hereof;

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

(m) To the extent applicable to the tenure hereof and not inconsistent herewith, definitions contained in the Act are incorporated herein by reference and shall have the same effect as if expressly set forth herein and made a part hereof.

2. Submission to Condominium Ownership. Declarant hereby submits the above-described tract of land, buildings, and other improvements constructed thereon or hereafter to be constructed, together with all appurtenances thereto, to the provisions of the Act as a condominium project to be known as THREE FOUNTAINS-PROVO, PHASE 1, CONDOMINIUM. This Declaration is submitted in accordance with the terms and the provisions of the Act and shall be construed in accordance therewith.

3. Covenants to Run With the Land. This Declaration and the covenants, restrictions, limitations, conditions, and uses therein provided, shall constitute covenants to run with the land hereby submitted to the Condominium Project and shall be binding upon the Declarant, their successors and assigns, and upon all subsequent owners of all or any part of the Condominium Project, and upon their grantees, successors, heirs, executors, administrators, devisees, and assigns.

4. Development Plans. the Phase 1 of the Project (in addition to recreational facilities and other improvements) consists of seven (7) buildings containing a total of 30 Units as shown on Sheet No. 1 of the Map.

The Buildings and the number of Units contained therein are as follows:

<u>Building Designation</u>	<u>Number of Units</u>
M1	4
M2	4

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M3	4
C4	4
C6	4
TH1	4
TH2	6
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Each Unit in the Project includes a basement, and each Unit in Buildings M1 to M3, inclusive, and C4 and C6 includes a double car garage adjacent thereto. All carports (each for two automobiles) as shown in the Map are Limited Common Areas.

Every Unit in the Manor Houses (M) and Cameo Houses (C) contains two bedrooms, two bathrooms and a kitchen-dining-living room area. Each Unit in the Townhouses (TH) contains 2½ bathrooms, 2 bedrooms and a kitchen-dining-living room area.

All the buildings are structurally of frame construction with masonry veneer exterior.

5. Easement for Encroachments and Utilities. If any portion of the Common Areas Facilities encroaches upon any of the residential units, a valid easement shall exist for such encroachment, and for the maintenance of the same, so long as such encroachment exists. In the event the Condominium Project is partially or totally destroyed, and then rebuilt, minor encroachments shall be permitted, as required, upon the individual units, and easements for such encroachments, and for the maintenance of same, shall exist for such period of time as may be reasonably required for the reconstruction or repair of said premises.

Easements are reserved through the Property as may be required for utility services.

6. Ownership of Common Areas. The percentages of ownership in the Common Areas of the Project shall be for all purposes, including voting. The Common Expenses shall be allocated among the Unit Owners in accordance therewith. The proportionate share of the separate Unit Owners in the Common Area is based on the proportionate value that each of the Units bears to the total value of all the Units. Such percentages will necessarily change from time to time upon the recordation of the Map(s) and Declaration(s) of subsequent phase or phases. The percentages of ownership in the Common Areas of Unit Owners in Phase 1, subject to shifting as specified in paragraph 23 (e), shall be as set forth in Exhibit "A" hereto attached and made a part hereof.

Subject to the limitations contained in the Declaration, any Unit Owner shall have the nonexclusive right to use and enjoy the Common Areas and shall have the exclusive right to use and enjoy the Limited Common Areas and Facilities designated herein for exclusive use by such Owner.

7. Limited Common Areas. The Limited Common Areas of the Project are the patios, storage areas, and in the case of Townhouses also the carports, which are set aside and reserved for the use of the respective Units to which they are adjacent or appurtenant and as designated in the Map to the exclusion of the other Units.

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8. Management. The Business, Property and affairs of the Three Fountains-Provo Condominium (Phase 1 and future phase or phases) shall be managed by Management Committee consisting of five (5) members who have ownership of Units in the Project to be elected as provided in the By-Laws. Such Management Committee shall have all the powers, duties and responsibilities as are now or may hereafter be provided by the Act, this Declaration and/or any amendments subsequently filed thereto; provided, however, that the Management Committee may engage the services of a Manager and fix and pay a reasonable fee or compensation therefor. Notwithstanding anything herein contained to the contrary, the Declarant, at its option, may act as the Management Committee until the completion and sale of all Units of the final phase of the Project.

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 and 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 the Committee.

The Management Committee shall 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 interest of the Unit Owners and to effect the necessary amendment of documents and maps in connection therewith.

The Management Committee shall be known by such name or designation as it, or the Unit Owners, at any meeting may assign.

9. Change in Ownership. Whenever there is a change of ownership of a residential unit and its appurtenant rights, for whatever reason, the Management Committee or the Manager may require as condition to recognizing the new Unit Owner or Owners as such, that the new Unit Owner or Owners meet the following:

- (a) Furnish evidence substantiating the new ownership;
- (b) Sign an agreement accepting and agreeing to be bound by the Declaration, the By-Laws, and the rules and regulations and all amendments thereto.

10. Description of a Unit. Every contract for the sale of a Unit and every other instrument affecting title to a Unit may describe that Unit by its identifying number or symbol as designated in the Map or Maps with the appropriate reference to the Map(s) and to the Declaration, as each shall appear on the records of the County Recorder of Utah County, Utah, in substantially the following fashion:

Unit \_\_\_\_\_, in Building \_\_\_\_\_, as shown on the Record of Survey Map for Three Fountains-Provo, Condominium, appearing in the records of the County Recorder of Utah County, Utah, in Book \_\_\_\_\_, page \_\_\_\_\_, of Platts, and as defined and described in the Declaration of Condominium for Three Fountains-Provo, appearing in such records in Book \_\_\_\_\_, page \_\_\_\_\_, of Records.

Such description will be construed to describe the Unit, together with the appurtenant undivided interest in the Common Areas, and

to incorporate all the rights incident to ownership of a Unit and all the limitations on such ownership as described in this Declaration, including all appurtenant undivided interests and all rights and limitations arising as a result of any expansion of the Project pursuant to paragraph 23 of this Declaration.

11. Assessments. Every Unit Owner shall pay his proportionate share on 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 By-Laws. There shall be a lien for non-payment of Common Expenses as provided by the Act. No Unit Owner may exempt himself from his contribution towards the Common Expenses by waiver of the use or enjoyment of any of the Common Areas and Facilities or by abandonment of his Unit.

In assessing Unit Owners or requiring them to pay for the building improvements following the execution of the Declaration, it is agreed that no assessment for a single improvement in the nature of capital expenditure exceeding the sum of \$2,500.00 in cost shall be made without the same having been first approved by vote of owners of 75 percent, or more, of the undivided interests in the Common Areas and Facilities. The foregoing sentence shall not apply in connection with the replacement or reconstruction occasioned by fire or other casualty.

12. Destruction or Damage. In the event the Condominium Project is destroyed or damaged to the extent of 75 percent or less than the value thereof, the Management Committee shall be responsible for repairing, rebuilding, and/or restoring the same to the condition it was in immediately prior to such destruction or damage, and the Management Committee shall, in this connection, be entitled to use the proceeds of any and all insurance policies which it may have had in force on said premises as of the date of such destruction or damage. In the event the Condominium Project is destroyed or damaged to the extent of more than 75 percent of the value thereof, the Unit Owner shall, at a meeting duly called by the Management Committee for the purpose, determine whether or not said premises should be rebuilt, repaired or disposed of, unless owners representing not less than 80 percent of the undivided interests in the Common Areas and Facilities agree to the withdrawal of the Condominium Project from the provisions of the Act and to its subsequent disposal, the premises shall be repaired, rebuilt or restored to the same condition they were in immediately prior to said destruction or damage. In the event the cost of such repairing, rebuilding, or restoring, the Condominium Project shall exceed the amount realized by the Management Committee from the proceeds of any insurance policy or policies as herein provided, the Unit Owners shall contribute to such cost in relation to their percentage of undivided ownership in the Common Areas and Facilities.

13. Taxes. It is understood that under the Utah Condominium Ownership Act each Unit, and its percentage of undivided interest in the Common Areas and Facilities in the Project are subject to separate assessment and taxation of each assessing unit and the special district for all types of taxes authorized by law, and that as a result thereof, no taxes will be assessed or payable against the Project as such. Each Unit Owner will, accordingly, pay and discharge any and all taxes which maybe assessed against him and his percentage of undivided interest in the Common Areas and the Facilities.

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14. Insurance. The Management Committee shall secure and maintain the following insurance coverage on the Condominium Project:

(a) Fire and Extended Coverage. The fire insurance, with extended coverage endorsement, for the full insurable replacement value of the Units and Common Areas, which said policy or policies shall provide for a separate loss payable endorsement in favor of the mortgagees of each Unit, if any.

(b) Liability Coverage. A policy or policies insuring the Management Committee, the Unit Owners and the Manager against any liability to the public or to the Unit Owners, Common Areas and Facilities, and their invitees or tenants, incident to the ownership and/or use of the Condominium Project, and including the personal liability exposure of the owners. Limits of liability under such insurance shall not be less than \$100,000.00/\$300,000.00 for bodily injury; and shall not be less than \$10,000.00 for property damage for each occurrence. Such limits and coverage shall be reviewed at least annually by the Management Committee and changed at its discretion. Said policy or policies shall be issued on a comprehensive liability basis and shall provide cross-liability endorsement wherein the rights of named insured under the policy or policies shall not be prejudice as in respect to his, her or their action against another named insured.

(c) Workmen's Compensation to the extent necessary to comply with any applicable law.

(d) Insurance for such other risks of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to other condominium projects similar in construction, design, and use.

(e) Exclusive authority to adjust losses under policies hereafter in force in the project shall be vested in the Management Committee or its authorized representative.

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

15. Payment of Expenses. Each Unit Owner shall pay the Management Committee his allocated portion of the cash requirement deemed necessary by the Management Committee to manage and operate the Condominium Project, including the recreational facilities thereof, upon the terms, at the times, 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, and if the owner shall fail to pay any installment within one month of the time when the same becomes due, the owner shall pay interest thereon at the rate of 10 percent per annum from the date when such installment shall become due to the date of the payment thereof.

The cash requirements above referred to for each year, or portions of the year, are hereby defined and shall be deemed to be such aggregate sum as the Management Committee shall from time to time determine, in its judgment, is to be paid by all the

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owners of Condominium Project then in existence to enable the Management Committee to pay all estimated expenses and outlays of the Management Committee to the close of such year, growing out of or in connection with the maintenance and operation of such land, buildings and improvements, recreational area and facilities, which sum may include, among other things, the cost of management, special assessments, fire, casualty, and public liability insurance premiums, common lighting, landscaping and the care of grounds, repairs and renovations to Common Areas and Facilities, Social Center, recreation facilities, snow removal, wages, water and charges, 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 a previous period, the creation of a reasonable contingency of other 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 become payable in the previous year, or which might have been included in the cash requirements for a previous year, but were not included therein; and also any sums which the Management Committee may deem necessary or prudent to provide a reserve against liabilities or expenses then accrued or thereafter to accrue although not payable in that year.

The portion payable by the owner in and for each year or for a portion of a year shall be a sum within the limits and on the conditions hereinabove provided bearing to the aggregate amount of such cash requirements for such year, or portion of year, determined as aforesaid, the same ratio as the owner owns an undivided interest in the Common Areas and Facilities, and 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 required by the Management Committee, and at such times as shall be provided by the Management Committee.

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 as against the owner be deemed necessary and properly made for such purpose.

If the owner shall at any time let or sublet the 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 from 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.

Each monthly assessment and each special assessment shall be separate, distinct and personal debts and obligations of the owner against whom the same are assessed at the time the



assessment is made and shall be collectible as such. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same. The amount of any assessment, whether regular or special, assessed to the owner of any condominium plus interest at ten percent per annum, and costs, including 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:

(a) Tax and special assessment liens on the unit in favor or any assessment unit, and special district, and,

(b) Encumbrances on the owner's condominium unit (and common areas and facilities) recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

A certificate executed and acknowledged by a majority of the Management Committee stating the indebtedness secured by the lien upon any condominium created hereunder, shall be conclusive upon the Management Committee stating the indebtedness secured by the lien upon any condominium created hereunder, 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 encumbrancee of a condominium upon request at a reasonable fee. Unless the request for a certificate of indebtedness shall be complied within ten (10) days, all unpaid common expenses which become due prior to the date of making of such request shall be subordinate to the lien held by the person making the request. Any encumbrancee holding a lien on the condominium and upon such payments such encumbrancee shall have a lien on such condominium for the amounts paid of the same rank as the lien of his encumbrance.

Upon payment of a delinquent assessment concerning which such certificate has been so recorded, or other satisfaction thereof, the Management Committee shall cause to be recorded in the same manner as the certificate of indebtedness a further certificate stating the satisfaction and release of the lien thereof. Such lien for non-payment 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 manner permitted by law. In any foreclosure or sale, the owner shall be required to pay the costs and expenses of such proceedings including a reasonable attorney's fees.

In the event of foreclosure, the owner shall be required to pay a reasonable rental for the condominium 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 mortgage security. The Management Committee or Manager shall have power to bid in the condominium at foreclosure or other sale and hold, lease, mortgage and convey the condominium.

16. Mortgage Protection. Notwithstanding all other provisions hereof:

(a) The liens created hereunder upon any condominium shall be subject and subordinate to, and shall not affect the rights of the holder of the indebtedness secured by any recorded first mortgage (meaning a mortgage or a trust deed with first priority over other mortgages) upon such interest made in good faith and for value, provided that after the foreclosure of any such mortgage there may be a lien created pursuant to Paragraph 15 hereof on the interest of the purchase at such foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such purchaser as an Owner after the date of such foreclosure sale, which said lien, if any claimed, shall have the same effect and be enforced in the same manner as provided herein;

(b) No amendment to this paragraph shall affect the rights of the holder of any such mortgage recorded prior to recordation of such amendment who does not join in the execution thereof;

(c) By subordination agreement executed by a majority of the Management Committee, the benefits of (a) and (b) above may be extended to mortgages not otherwise entitled thereto.

17. Maintenance of Units. Each Unit Owner at his expense shall keep the interior of his Unit and its equipment and appurtenances in good order, condition and repair and in a clean and sanitary condition, and shall do all redecorating and painting which may be necessary at any time to maintain the good appearance of his Unit. Except to the extent that the Management Committee is protected by insurance against such injury, the Unit Owner shall repair all injury or damage to the building or buildings caused by the act, negligence or carelessness of the owner or that of any lessee or sublessee or any member of the owner's family or of the family of any lessee or sublessee or any agent, employee or guest of the owner of his lessee or sublessee 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 owner shall be responsible for the maintenance or replacement of any plumbing fixtures, refrigerators, air conditioning and heating equipment, dishwashers, disposals, ranges, etc., that may be in or connected with the Unit. The owner shall be entitled to the exclusive use and possession of the patios, carports and storage rooms attached to his Unit and shall be responsible for the maintenance and upkeep of same, provided however, that without the written permission of the Management Committee first had and obtained, the owner shall not make or permit to be made any structural alteration, improvement or addition in or to the unit, patios, carports, and storage rooms, or in or to the exterior of the building, and shall not paint or decorate any portion of the exterior of the building in which his unit is located.

18. Use Restrictions. The use of the Condominium property shall be in accordance with the following provisions:

(a) Each of the Units shall be occupied by only a family, its servants, and guests, as a private residence and for no other purpose. No Unit may be divided or subdivided into a smaller unit nor any portion thereof sold or otherwise transferred without first amending this Declaration to show the changes in the Units to be affected thereby.

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(b) The Common Areas and Facilities shall be used only for the purpose for which they are intended in the furnishing of services and facilities for the enjoyment of the Units.

(c) No use or practice shall be permitted on the Condominium which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the property by its residents. All parts of the property shall be kept in a clean and sanitary condition, and no rubbish, refuse, or garbage allowed to accumulate nor any fire hazard allowed to exist. No Unit Owner shall permit any use of his Unit or of the Common Areas which will increase the rate of insurance upon the condominium property. No immoral, improper, offensive, or unlawful use shall be made of the Condominium or any part thereof.

(d) Until the Declarant has completed and sold all of the Units, neither the Unit Owners nor the Management Committee shall interfere with the completion of the contemplated improvements and sale of the Units. The Declarant may make such use of the unsold Units and Common Areas as may facilitate such completion and sale, including but not limited to the maintenance of a sales office, the showing of the property, and the display of signs.

(e) No signs, notices or advertisements shall be displayed on or at any window or other part of the Unit or in the Common Areas without the written approval of the Management Committee.

19. 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 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 for the purpose of performing emergency installations, alterations, or repairs to the mechanical or electrical devices or installations located therein or thereon; provided, however, such emergency installations, alterations, or repairs are necessary to prevent damage or threatened damage to other units in the Project; and provided further, that the apartment owner affected by such entry shall first be notified thereof if available and if time permits.

20. Administrative Rules and Regulations. The Management Committee shall have the power to adopt and establish by resolution such building, management, and operational rules 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. 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 amendments, alteration and 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 and/or occupants of the Condominium.

21. Obligation to Comply Herewith. Each Unit Owner, tenant, or 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 the provisions thereof, shall be ground for an action by the Management Committee to recover any loss or damage resulting therefrom or injunctive relief.

22. Indemnification of Management Committee. Each member of the Management Committee shall be indemnified and held harmless by the Unit Owners against all cost, expenses and liabilities whatsoever, including, without limitation, attorney's fees, reasonably incurred by him in connection with any proceeding to which he may become involved by reason of his being or having been a member of said Committee.

23. Expansion of the Project. (a) Reservation of Right to Expand. Declarant hereby reserves the right to expand the Condominium Project to include additional units of the same general type as the Units in the present Project (Phase 1). Such Units shall be constructed on other real property then owned by Declarant adjacent to the land of Phase 1. The total number of Units in the Project, as expanded, shall not exceed 185 Units.

(b) Supplemental Declarations and Supplemental Maps. Such expansion may be accomplished by the filing for record by Declarant in the Office of the County Recorder of Utah County, Utah, no later than five (5) years from the date this Declaration is recorded in said Office, a supplement or supplements to this Declaration containing a legal description of the site or sites for new Units, together with a supplemental Map or Maps containing the same information with respect to the new Units as was required on the original Map with respect to the initial Units. The expansion may be accomplished in phases by successive supplements or in one supplemental expansion.

(c) Expansion of Definitions. In the event of such expansion the definitions used in this Declaration automatically shall be expanded to encompass and refer to the Project as so expanded. E.g., "Real Property" shall mean the real property hereinabove described plus any additional real property added to the Project by a Supplemental Declaration or by Supplemental Declarations, and reference to this Declaration shall mean this Declaration as so supplemented. All conveyances of Units after such expansion shall be effective to transfer rights in the Project, as expanded, by use of the form of description set forth in paragraph 10 hereof, with additional references to the Supplemental Declaration and the Supplemental Map. The recordation in the Office of the Utah County Recorder, Provo, Utah, of a Supplemental Map incident to any expansion shall operate automatically to grant, transfer and convey to then Owners of Units in the Project as it existed before such expansion the respective undivided interests set forth in Exhibit "A" hereto in the new Common Areas added to the Project as a result of such expansion. Such recordation shall also operate to vest in any then Mortgagee of any Unit in the Project as it existed interest so acquired by the Owner of the Unit encumbering the new Common Areas added to the Project as a result of such expansion.

(d) Declaration Operative on New Units. The new Units shall be subject to all the terms and conditions of this Declaration and of a Supplemental Declaration, and the Units therein shall be subject to condominium ownership with all the incidents pertaining thereto as specified herein, upon placing the Supplemental Map and Supplemental Declaration in the said Office of the Utah County Recorder.

(e) Right of Declarant to Adjust Percentages of Common Areas. Each deed of a Unit shall be deemed to irrevocably reserve to the Declarant the power to appoint to Unit Owners, from time to time, the percentages in the Common Areas set forth in Supplemental or Amended Declarations. A power coupled with an

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interest is hereby granted to Kevin Watts and Myrle Watts, or either of them, as attorneys in fact to shift percentages of the Common Areas in accordance with Supplemental or Amended Declarations recorded pursuant hereto and each deed of a Unit in the Project shall be deemed a grant of such power to said attorneys in fact. Various provisions of this Declaration and deeds and mortgages of the Units may contain clauses designed to accomplish a shifting of the Common Areas. None of said provisions shall invalidate the other, but each shall be deemed supplementary to the other toward the end that a valid shifting of the Common Areas can be accomplished.

24. Amendment. In addition to the amendment provisions provided in Paragraph 6 above, the Unit Owners shall have the right to amend this Declaration and/or the Map upon the approval and consent of Unit Owners representing not less than two-thirds (2/3) of the undivided interests in the Common Areas and Facilities, which approval and consent shall be by duly recorded instruments.

25. Transfer or Lease of Units. The owner, or owners, of any Unit in the Project who desires to sell said Unit, or to enter into any agreement for the occupancy of said Unit by another person or persons, shall give the Management Committee ten (10) days' advance written notice thereof, which notice shall state the name and address of the proposed purchaser or occupant, as the case may be, and the terms and conditions upon which said proposed purchaser or occupant agrees to purchase or occupy said Unit. The Management Committee shall have the right, exercisable at any time within ten (10) days after its receipt of such notice, to purchase or enter into an agreement for the occupancy of said Unit upon the same terms and conditions as those specified in that notice; provided, however, that in the event the Management Committee enters into an agreement hereunder for the occupancy of any Unit, it shall have the right to sublet said Unit to any person or persons reasonably suitable to the Management Committee. In the event the Management Committee determines that it desires to purchase, or enter into an agreement respecting the occupancy of, a Unit as above provided, but concludes that the price or rental specified in the notice is unreasonable, the Management Committee shall give the owner or owners of said Unit written notice thereon within seven (7) days after its receipt of notice of the proposed sale or occupancy arrangement. The notice thus given by the Management Committee shall state that it has elected or thereby elects to purchase said Unit, or enter into an agreement for the occupancy of the same, and shall state further that the Management Committee believes the price or rental specified in the notice given to it is unreasonable. The Management Committee shall thereafter be obligated to purchase said Unit, or enter into an agreement for the occupancy of same, as the case may be, at a price or rental to be determined by a group of three M.A.I. Appraisers to be selected as follows: The Management Committee shall select one appraiser, the Unit Owner or Owners concerned shall select one appraiser, and the two appraisers thus selected shall select the third appraiser. In the event all three appraisers cannot agree on a price or rental to be paid, as the case may be, the decision of any two of the three shall be binding.

The Management Committee, upon written request of any prospective seller, buyer, lessor, tenant or mortgagee, shall furnish a duly acknowledged certificate of compliance with, or a waiver of, the provisions of the next preceding paragraph. Such a certificate shall be conclusive evidence of the facts stated

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therein.

26. Service of Process. The name of the person to receive service of process in the cases contemplated by the Act and the place of his residence are:

Kevin Watts  
2144 Pheasant Way  
Salt Lake City, Utah

27. Easement Concerning Boat and Camper Storage Area. Declarant is the owner of a certain tract of land, hereinafter referred to as "the Storage Property", adjacent to the next contemplated phase of the Project. Declarant contemplates development of the Storage Property for use as a boat and camper storage area for the use of the Unit Owners at such reasonable rental as may be subsequently arranged. When the Storage Property is developed for such purpose, the Declarant, its successors, and assigns, shall have a perpetual, non-exclusive easement to use the streets of the Project for egress and ingress to and from the Storage Property, together with a right of access to a street in the Project by an access easement. Declarant will delineate said easement in a future phase of the Project.

28. Severability. The invalidity of any one or more phrases, sentences, clauses, paragraphs, or sections hereof shall not effect the remaining portions of this instrument or any part thereof, all of which are inserted conditionally on their being held valid in law and in the event that one or more of the phrases, sentences, clauses, paragraphs or sections contained therein should be invalid or should operate to render this agreement invalid, this instrument shall be construed as if such invalid phrase or phrases, sentence or sentences, clause or clauses, paragraph or paragraphs, section or sections had not been inserted.

29. 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, men or women, shall in all cases be assumed as though in each case fully expressed.

30. 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.

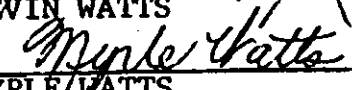
31. Topical Headings. The topical headings of the paragraphs contained in this Declaration are for convenience only and do not define, limit or construe the contents of the paragraphs or of this Declaration.

32. Effective Date. This Declaration shall take effect upon recording in the office of the County Recorder of Utah County, Utah in Provo, Utah.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has signed this Declaration on the 11<sup>th</sup> day of November, 1972.

DECLARANT:

  
\_\_\_\_\_  
KEVIN WATTS

  
\_\_\_\_\_  
MYRLE WATTS

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

On the 11<sup>th</sup> day of November, 1972, personally appeared before me KEVIN WATTS and MYRLE WATTS, his wife, the signers of the foregoing instrument, who duly acknowledged to me that they executed the same.

Max Yano  
NOTARY PUBLIC, Residing  
At Salt Lake City, Utah

My Commission Expires:

June 28, 1976

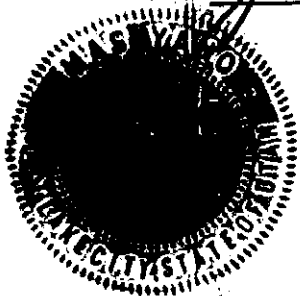


EXHIBIT "A"

THREE FOUNTAINS -- PROVO  
PHASE 1, CONDOMINIUM

<u>Unit No.</u>	<u>Building No.</u>	<u>*% Ownership In Common Areas</u>
1	M1	3.8334%
2	"	"
3	"	"
4	"	"
5	M2	3.8333%
6	"	"
7	"	"
8	"	"
9	M3	"
10	"	"
11	"	"
12	"	"
29	C4	3.2500%
30	"	"
31	"	"
32	"	"
37	C6	"
38	"	"
39	"	"
40	"	"
45	TH1	2.8000%
46	"	"
47	"	"
48	"	"
49	TH2	"
50	"	"
51	"	"
52	"	"
53	"	"
54	"	"
		<hr/>
		100.0000%

\*Subject to amendments pursuant to paragraph 23 of Declaration.



EXHIBIT "B"

BY-LAWS  
OF  
THREE FOUNTAINS -- PROVO

I

IDENTITY

These are the By-Laws of the Three Fountains -- Provo Condominium.

II

APPLICATION

All present or future Unit Owners, tenants, or any other person(s) who might use the facilities of the Three Fountains -- Provo Condominium in any manner are subject to the regulations set forth in these By-Laws. The mere acquisition or rental of any of the Units or the mere act of occupancy or use of any of said Units or the Common Areas will signify that these By-Laws are accepted, ratified, and will be complied with by such persons.

III

ADMINISTRATION

1. Place of Meetings. Meetings of the Unit Owners shall be held in 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 Unit Owners shall be held on the first Wednesday of October, 1973, at such place as the Management Committee shall specify. Thereafter, the annual meeting 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 provided further, that the Management Committee may by resolution fix the date of the annual meeting on such date and at such place as the Management Committee may deem appropriate.

3. Special Meetings. Special meetings of the Unit Owners may be called at any time by written notice served by the Management Committee, or by Unit Owners having 35 percent of the total votes, delivered not less than seven days prior to the date fixed for such 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 place, 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 mail. If delivery is by mail, it shall be deemed to have been delivered 24 hours after a copy of the same has been deposited in the United States Mail, postage prepaid, addressed to each Unit Owner at the address given by such person to the Management Committee or the Manager for the purpose of service of such notice or to the Unit of such person if no address has been given. Such address may be changed from time to time by notice in writing to the Management Committee or Manager.

5. Quorum. At any meeting of the Unit Owners, the owners of more than fifty percent in the aggregate in interest of the undivided ownership of Common Areas and Facilities shall constitute a quorum for any and all purposes, except where by express provisions a greater vote is required, in which event a quorum shall be the number required for such vote. In the absence of a quorum the Chairman of the meeting may adjourn the meeting from time to time, without notice other than by announcement at the meeting, until holders of the amount of interest requisite to constitute a quorum shall attend. At any such adjourned meeting at which a quorum shall be present any business may be transacted which might have been transacted at the meeting as originally notified.

6. Voting. When a quorum, as provided in the Utah Condominium Ownership Act is present at any meeting, the vote of Unit Owners representing at least fifty-one (51%) percent, or more, of the undivided ownership of Common Areas and Facilities, present in person or represented by proxy, shall decide any question of business brought before such meeting, including the election of the Management Committee, unless the question is one upon which, by express provision of the statutes, or of these By-Laws, a different 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 in the case of proxies for the annual meeting, they shall be delivered to the Secretary at least three days prior to said annual meeting. Proxies for special Unit Owners' meetings must be of record with the Secretary at least three days prior to said annual meeting.

7. Waivers of Notice. Any Unit Owner may at any time waive any notice required to be given under these By-Laws, or by statute or otherwise. The presence of a Unit Owner in the person at any meeting of the Unit Owners shall be deemed such waiver.

#### IV

#### MANAGEMENT COMMITTEE

1. Purpose and Powers. The business, property and affairs of the Condominium shall be managed and governed by its Management Committee, hereinafter referred to as the

"Management Committee" or "The Committee", consisting of five members, provided, however, that the Declarant may, at its option, act as the Management Committee until the completion of, and the sale of, all the Units of the Project. The Management Committee, as it deems advisable, may enter into such management agreement or agreements with a third person, firm, or corporations to act as the Manager of the Project.

2. Election and Term of Office. Subject to the provisions of the immediately preceding paragraph, at the first meeting (special or annual) of the Unit Owners called for the purpose of electing the initial Management Committee, five members shall be elected to constitute such Management Committee. The term of office of two members thereof shall be fixed for three (3) years. The term of office of two members shall be fixed at two (2) years, and the term of office of one (1) member shall be fixed at one (1) year. At the expiration of the initial term of office of each respective member, his successor shall be elected to serve a term of three (3) years. The members shall hold office until their successors have been elected and hold their first meeting.

3. Vacancies. Vacancies on the Management Committee caused by any reason whatsoever shall be filled by vote of a majority of the remaining members thereof even though they may consist of less than a quorum and each person so chosen shall be a member of the Management Committee until his successor is elected by the Unit Owners at the next annual meeting.

4. Regular Meetings. A regular annual meeting of the Management Committee shall be held immediately after the adjournment of each annual Unit Owners' meeting. 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 Chairman of the Management Committee may from time to time designate.

5. Special Meetings. Special meeting of the Management Committee shall be held whenever called by the Chairman, the Vice-Chairman, or by three 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 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 a 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 other time as may be prudent or necessary, provided that no meeting may be adjourned for longer than thirty (30) days.

10. Fidelity Bonds. The Management Committee may require that all officers and employees of the Management Committee handling or responsible for funds shall require adequate fidelity bonds. The premium on such fidelity bonds shall be paid by the Management Committee.

V

OFFICERS

1. Designation and Election. The principal officers of the Management Committee shall be a Chairman, a Vice-Chairman, a Secretary, and a Treasurer, all of whom shall be elected by and from the Management Committee. The Management Committee may appoint an assistant secretary and an assistant treasurer and such other officers as in its 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 elections 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 to the officers hereinabove expressly named, as it shall deem necessary, who shall have authority to perform such duties as may be prescribed from time to time by the Management Committee.

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. Chairman. The Chairman 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 of 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 or 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 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-Chairman. The Vice-Chairman shall take place of the Chairman and perform his duties whenever the Chairman shall be absent, or unable to act. If neither the Chairman nor the Vice-Chairman is able to act, the Management Committee shall appoint some other member thereof to do so on an interim basis. The Vice-Chairman 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 be from time to time 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 standards 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 at least 75 percent of the owners of undivided interest in the Common Areas and Facilities determine so to do.

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 Owners.

VII

BUILDING RULES

The Management Committee shall have the power to adopt and establish, by resolution, such building, management and operational rules and regulations as it may deem necessary for the maintenance, operation, management and control of the Three Fountains -- Provo Condominium Project, and the Management Committee may from time to time, by resolution, alter, amend, and repeal such rules and regulations. Unit 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 Unit Owners of the Condominium Project. Provisions of the Act pertaining to rules and regulations are incorporated herein by reference and shall be deemed a part hereof.

VIII

AMENDMENT OF BY-LAWS

These By-Laws may be amended at any duly constituted meeting of the Unit Owners called for that purpose by the affirmative vote of at least 2/3 of the ownership in the Common Areas.

19303

RECORDED AT THE REQUEST OF  
SECURITY TITLE & ABS, CO.

1972 DEF -6 PM 2:47

NINA B. FIELD  
STATE COUNTY RECORDER  
DEPUTY FEE 135.00  
PL S T R

SECURITY TITLE & ABS, CO.

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