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WHEN RECORDED, PLEASE RETURN TO:  
Harry E. McCoy II  
Fox, Edwards & Gardiner  
2000 Beneficial Life Tower  
36 South State Street  
Salt Lake City, Utah 84111

MAR 24 1980

7700-091 4-00-00

MARKET STREET PLACE  
(a condominium project)  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS AND  
BYLAWS

4050  
REF  
FILED BY  
N. M. H. Hood  
MAR 24 8 43 AM '80  
KATIE L. DIXON  
RECORDING  
SALT LAKE COUNTY  
UTAH  
DAVID DORR

This Declaration of Covenants, Conditions and Restrictions, hereinafter called "Declaration," and the Bylaws which are attached hereto as Appendix B and made a part hereof, are made and executed in Salt Lake County, Utah, this 20th day of March, 1980, by Bara Investment Corporation, a Utah Corporation with its principal place of business in Salt Lake County, Utah, hereinafter "Declarant," for itself, its successors, grantees, and assigns, pursuant to the provisions of the Utah Condominium Ownership Act, Sec. 57-8-1, et seq., Utah Code Annotated 1953, as amended, hereinafter referred to as "the Condominium Act."

W I T N E S S E T H :

WHEREAS, Declarant is the owner of certain real property located in Salt Lake County, hereinafter referred to as the "Land," more particularly described in Section 3 hereof; and

WHEREAS, Declarant intends to construct a Building (hereinafter defined) and other improvements upon the Land, all of which are to be included within the Property (hereinafter defined), and it is the desire and intention of Declarant to submit the Property to a condominium regime and to sell and convey the same to various purchasers, subject to the covenants, conditions and restrictions herein reserved to be kept and observed; and

WHEREAS, Declarant desires and intends by filing this Declaration to submit the Property to the provisions of the

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Condominium Act as a condominium project and to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of the Property and owners thereof;

NOW, THEREFORE, Declarant does hereby publish and declare that all of the Property described above is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the following covenants, conditions, restrictions, uses, limitations and obligations, all of which are declared and agreed to be in furtherance of a plan for the improvement of the Property and the creation of individual condominiums, and shall be deemed to run with the Land and shall be a burden and a benefit to Declarant, its successors and assigns, and any person acquiring or owning an interest in the Property, their grantees, successors, heirs, executors, administrators, devisees and assigns.

1. Name of the Condominium Property. The name by which this condominium project shall be known is Market Street Place, hereinafter referred to as "Market Street."

2. Definitions. The terms used in this Declaration and in the Bylaws shall be as defined in the Condominium Act, unless otherwise indicated by the context, except as follows:

(a) "Building" shall mean the structure located on the land containing units.

(b) "Mortgage" shall mean a deed of trust as well as a mortgage.

(c) "Mortgagee" shall mean a beneficiary under or holder of a deed of trust as well as a mortgage.

(d) "Lease" shall mean any agreement for the leasing or rental of a Unit.

(e) "Property" shall mean and include the Land, the Building, all improvements and structures thereon, and all easements, rights, and appurtenances belonging thereto and all articles of personal property intended for use in connection therewith.

(f) "Institutional Holder" shall mean a mortgagee which is a bank or savings and loan association or established mortgage company, or other entity chartered under Federal or State laws, any corporation or insurance company, or any federal or state agency.

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(g) "Parking Space" shall mean those parking areas designated as part of the Units pursuant to Section 12 hereof.

(h) "Parking Unit" shall mean those separate physical spaces which are not designated as part of the Units and which may be conveyed to Unit Owners for parking of motor vehicles or for other uses as hereinafter provided.

3. Detailed Description.

A. Description of Land. The Land is located in Salt Lake County within the corporate limits of Salt Lake City and is more particularly described as follows:

Commencing at the southwest corner of Lot 1, Block 58, Plat B, Salt Lake City Survey, and running thence east 2-1/2 rods; thence north 10 rods; thence west 2-1/2 rods; thence south 10 rods to beginning, and

Commencing at a point 13-1/2 rods west of the southeast corner of Lot 1, Block 58, Plat B, Salt Lake City Survey; and running thence west 4 rods; thence north 10 rods; thence east 4 rods; thence south 10 rods to point of commencement, and

Commencing at a point 10 rods north of the southwest corner of Lot 1, Block 58, Plat B, Salt Lake City Survey, and running thence north 4 feet; thence east 6-1/2 rods; thence south 4 feet; thence west 6-1/2 rods to the point of beginning.

B. Description of Building. Market Street consists of one Building containing Units, located within the boundaries of the land described in subparagraph A, together with covered parking facilities and open space and walkways. The Building consists of five levels and contains 22 Units. The first level consists of parking, with Units located on each of levels 2, 3, 4 and 5, together with recreational areas on the fifth level. The Building is of wood, steel and concrete construction with brick facing and concrete foundation.

C. Description of Units. The number of each Unit, its Building location and square footage together with the Parking Space or Spaces included as part of said Unit are as set forth in Appendix A attached hereto and made a part hereof. Access to the Common Areas and Facilities from each Unit is direct from each Unit and by walkways in the Common

Areas and Facilities. The boundary line of each Unit shall be the undecorated and/or unfinished interior surfaces of its perimeter walls, bearing walls, lowermost floors, and uppermost ceilings, and the interior surfaces of doors, window frames, door frames and trim. Each Unit shall include both the portions of the Building that are not Common or Limited Common Areas and Facilities within such boundary lines and the space so encompassed. Specifically, the Unit shall include all balconies and patios associated with a particular Unit and the Parking Space or Spaces designated in Appendix A as appurtenant to the Unit. Without limitation, a Unit shall include any finished material applied or affixed to the interior surfaces of the walls, floors and ceilings of the Unit.

D. Description of Parking Units. In addition to the Parking Spaces designated as part of each Unit as provided for in subparagraph C above, additional Parking Units are set forth in Appendix A attached hereto and made a part hereof. Such Parking Units shall be deeded separately from the Units as further provided in Section 12 hereof, but shall have no appurtenant fraction of undivided interest.

E. Description of Common Areas and Facilities. The Common Areas and Facilities shall mean all Land and all portions of the Property not contained within any Unit or within the Limited Common Areas and Facilities; including, but not by way of limitation, roofs, foundations, pipes, ducts, flues, chutes, floors, ceilings, conduits, wires and other utility installations to the outlets; bearing walls, perimeter walls, columns and girders to the undecorated and/or unfinished interior surfaces thereof, regardless of location; hallways, lobbies, elevators, stairways, walkways, all recreational areas and facilities which are now or hereafter contained within the Property; all installations of heat, power, lights, and hot and cold water existing for common use, and all other parts of the Property necessary or convenient to its existence, maintenance and safety or normally in common use and all areas and facilities designated as Common Areas and Facilities in the Condominium Act.

F. Description of Limited Common Areas and Facilities. "Limited Common Areas and Facilities" shall mean all special corridors, terraces, and storage areas adjacent to or associated with one or more particular Units and intended for the exclusive use of such Units. All areas of the Property which do not fall within the above definition of Limited Common Areas and Facilities or of Unit shall be deemed to be

part of the Common Areas and Facilities as set forth in subparagraph E above.

G. Ownership Fraction and Voting Rights. The fraction of undivided interest in the Common Areas and Facilities appertaining to each Unit and its Unit Owner for all purposes, including voting, is set forth in Appendix A attached hereto and made a part hereof as if herein set forth in full. The fraction of undivided interest of all Units is equal.

4. Statement of Purposes, Use and Restrictions. The Units, Common Areas and Facilities and Limited Common Areas and Facilities shall be occupied and used as follows:

(a) A Unit Owner shall not occupy or use his Unit, or permit the same or any part hereof to be occupied or used, for any purpose other than for the personal use for dwelling purposes by the Unit Owner and the Unit Owner's family or the Unit Owner's guests, renters or lessees; provided, that no Unit shall be permanently occupied or used by children who are less than twelve years of age.

(b) With the exception of an Institutional Lender in possession of a Unit following a default in a first mortgage, a foreclosure proceeding or any deed or any other arrangement in lieu thereof, a Unit Owner shall not be permitted to lease his Unit for transient or hotel purposes. No Unit Owner may lease less than the entire Unit. Any Lease shall be required to be in writing and shall provide that the terms of the Lease shall be subject in all respects to the provisions of this Declaration and the Bylaws associated therewith and any failure by a Lessee to comply with the terms of such Declaration and Bylaws shall be deemed a default under the Lease.

(c) No commercial business shall be permitted within the Property.

(d) There shall be no obstruction of the Common Areas and Facilities. Except in the case of designated storage areas, nothing shall be stored in the Common Areas and Facilities without the prior written consent of the Management Committee.

(e) Nothing shall be done or kept in any Unit or in the Common Areas and Facilities or Limited Common Areas and Facilities which will increase the rate of insurance on the Property without the prior written consent of the Management

Committee. No Owner shall permit anything to be done or kept in his Unit, Common Areas and Facilities or in the Limited Common Areas and Facilities which will result in the cancellation of insurance of any Unit, or any part of the Common Areas and Facilities or Limited Common Areas and Facilities, or which would be in violation of any law. No waste will be committed of the Common Areas and Facilities or Limited Common Areas and Facilities.

(f) No sign of any kind shall be displayed to the public view or from any Unit or from the Common Areas and Facilities or Limited Common Areas and Facilities without the prior written consent of the Management Committee.

(g) No animals, livestock or poultry of any kind shall be raised, bred or kept in any Unit or in the Common Areas and Facilities or Limited Common Areas and Facilities.

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

(i) Nothing shall be altered or constructed in or removed from the Common Areas and Facilities or Limited Common Areas and Facilities, except upon the prior written consent of the Management Committee.

(j) There shall be no violation of rules for the use of the Common Areas and Facilities or Limited Common Areas and Facilities adopted by the Management Committee and furnished in writing to the Owners, and the Management Committee is authorized to adopt such rules.

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

(l) Declarant, and persons it may select, shall have the right of ingress and egress over, upon and across the Common Areas and Facilities and Limited Common Areas and

Facilities and the right to store materials thereon and make such other use thereof as may be reasonably necessary and incident to sale of the Units and operation of the Units and Common Areas and Facilities in connection with the overall development of Market Street as a condominium project. Declarant and its duly authorized agents, representatives and employees may maintain a sales office and a maximum of not to exceed two model Units on the Land during the sale of the Units. Declarant shall have the right to change the location of model Units from time to time in its sole discretion and in addition to the two model Units may maintain one additional Unit as a sales office until such time as it has ceased to use model Units on the Land. Any furnishings or other improvements to such Units shall remain the sole property of Declarant and shall be removed by Declarant within fourteen days of cessation of use of such model Unit or sales office.

5. Agent for Service of Process. Until such time as Declarant transfers the right and responsibility to elect a Management Committee to the Unit Owners as provided in the Bylaws, the name and address of the person in Salt Lake County, Utah, for the service of notice or process in matters pertaining to the Property as provided under the Condominium Act is:

Mr. Nazih Mahmood  
70 South Ninth East #7  
Salt Lake City, Utah 84102

Thereafter the person to receive service of notice or process shall be any member of the Management Committee residing in Salt Lake County, Utah, as listed in the Affidavit filed with the Recorder of Salt Lake County.

6. Damage or Destruction; Sale. In the event that the Building and/or other improvements on the Land are damaged or destroyed by fire or other casualty or disaster, such Building and/or other improvements shall be promptly repaired, restored or reconstructed to the extent required to restore them to substantially the same condition in which they existed prior to the occurrence of the damage or destruction, with each Unit and the Common Areas and Facilities having the same vertical and horizontal boundaries. Such repairs, restoration or reconstruction shall be paid for out of any insurance proceeds received on account of the damage or destruction; provided, however, that if the insurance proceeds are not sufficient for such purpose, the deficiency shall be assessed as a Common Expense.

In the event of damage or destruction to the Building and/or other improvements on the land, the Management Committee shall inform each Institutional Holder of a first Mortgage on a Unit in writing of such damage or destruction.

Notwithstanding the foregoing, in the event that 75 percent or more of the Units are destroyed and the Unit Owners by an affirmative vote of at least 75 percent of the total voting power and all Institutional Holders of first Mortgages of the Units file notice with the Management Committee within 90 days after such destruction that they do not desire that the Building be reconstructed or restored, the Management Committee shall record, with the Recorder of Salt Lake County, Utah, a Notice setting forth such facts, and upon the recording of such Notice:

(a) the Property shall be deemed to be owned in common by the Unit Owners.

(b) the undivided interest in the Property owned in common which shall appertain to each Unit Owner shall be the fraction of undivided interest previously owned by such Unit Owner in the Common Areas and Facilities;

(c) any liens affecting any of the Condominiums shall be deemed to be transferred in accordance with the existing priorities to the fraction of undivided interest of the Unit Owner in the Property; and

(d) the Property shall be subject to an action for partition at the suit of any Unit Owner, in which event the net proceeds of sale (the Property not being susceptible of fair partition without depreciating the value thereof), together with the net proceeds of the insurance on the Property, if any, shall be considered as one fund and shall be divided among all the Unit Owners in proportion to their respective fractions of undivided interest in the Common Areas and Facilities, after first paying out of the respective shares of the Unit Owners, to the extent sufficient for the purpose, all liens on the undivided interest in the Property owned by each Unit Owner.

Notwithstanding all other provisions of this Declaration, the Unit Owners may, by an affirmative vote of the total voting power at a meeting of the Association of Unit Owners duly called for such purpose, and with the prior written approval of each Institutional Holder, elect to sell or otherwise dispose of the Property. Such action shall be binding upon all Unit Owners and it shall thereupon become the duty of every Unit Owner to execute and deliver such instruments and to perform all acts as in manner and form may be necessary to effect the sale.



7. Subdivision or Combination. Except as this Declaration may be amended as provided herein and subject to the requirements of any applicable laws or regulations of governmental authorities, no subdivision or combination of any Unit or Units or of the Common Areas and Facilities or Limited Common Areas and Facilities may be accomplished except pursuant to unanimous vote of the Unit Owners at a meeting called for the notified purpose of consideration thereof or upon receipt by the Management Committee of the written consent of all Unit Owners. In addition thereto, no Unit may be subdivided or combined without the prior written approval of the Institutional Holder of any first Mortgage lien on such Unit. If so approved, any such subdivision or combination shall be reflected in a recorded revised Declaration and Record of Survey Map consistent therewith, and such subdivision or combination shall be ineffective for any purpose until recorded in compliance with all such laws and regulations. All expenses for such preparation and recording of the revised Declaration shall be borne by the persons requesting the same and shall not be a Common Expense of the Property.

8. Voting. At any meeting of the Association of Unit Owners, each Unit Owner, including Declarant, either in person or by proxy, shall be entitled to cast a number of votes in behalf of his Unit or Units corresponding with the fraction of undivided interest in the Common Areas and Facilities as listed in Appendix A. Where there is more than one record Unit Owner, any or all of such persons may attend any meeting of the Association of Unit Owners, but it shall be necessary for those present to act unanimously in order to cast the votes to which they are entitled. Declarant shall be entitled to vote with respect to any Condominium owned by it.

9. Notices. Any notice permitted or required to be delivered as provided herein may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered 48 hours after a copy of same has been deposited in the U.S. Postal Service, first class postage prepaid, addressed to each such person at the address given by such person to the Management Committee for the purpose of service of such notice or to the Unit of such person if no such address has been given. Such address may be changed from time to time by notice in writing to the Management Committee.

10. Mortgage Protection. Notwithstanding all other provisions hereof:

(a) The liens created hereunder upon any Condominium shall be subject to, and shall not affect the rights of any Institutional Holder of, the indebtedness secured by any

recorded first Mortgage (meaning a Mortgage with first priority over other Mortgages) upon such Condominium made in good faith and for value, provided that after the foreclosure of any such Mortgage there may be a lien created pursuant to VI.B of the Bylaws on the interest of the purchaser at such foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such purchaser as a Unit Owner after the date of such foreclosure sale;

(b) No amendment to this Section shall affect the rights of the Institutional Holder of any such Mortgage recorded prior to the 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 paragraphs (a) and (b) above may be extended to Mortgagees not otherwise entitled thereto.

11. Exclusive Ownership and Possession by Unit Owner. Each Unit Owner shall be entitled to exclusive ownership and possession of his Unit. Each Unit Owner shall have an undivided interest in the Common Areas and Facilities as listed in Appendix A. The fraction of undivided interest of each Unit in the Common Areas and Facilities as expressed in Appendix A shall be permanent and shall not be altered without the consent of all Unit Owners expressed in an amended Appendix A duly recorded and the prior written consent of all Institutional Holders of first Mortgages pertaining to each such Unit. The fraction of undivided interest in the Common Areas and Facilities shall not be separated from the Unit to which it appertains and shall be deemed to be conveyed or encumbered or released from liens with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument. Each Unit Owner may use the Common Areas and Facilities in accordance with the purposes for which they are intended, so long as he does not hinder or encroach upon the lawful rights of the other Unit Owners.

A Unit Owner shall not be deemed to own the undecorated and/or unfinished interior surfaces of the perimeter walls, floors, ceilings, windows and doors bounding his Unit, nor shall a Unit Owner be deemed to own the utilities running through his Unit which are utilized for, or serve, more than one Unit, except as a tenant in common with the other Unit Owners. A Unit Owner, however, shall be deemed to own the decorated and/or finished interior surfaces of the perimeter walls, floors, ceilings, windows, and doors bounding his Unit and shall have the obligations set forth in Section 13 hereof with respect thereto.

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12. Use of Parking Areas and Parking Units. The Property has 37 covered parking areas, 22 of which are Parking Spaces assigned to and part of the individual Units. The 10 additional covered parking areas, designated as Parking Units, shall be deemed to be separate physical spaces and shall be conveyed to purchasers for parking of motor vehicles and for other uses as hereinafter provided; provided, however, that no Parking Unit may be conveyed to any person who is not also an owner of a Unit, and provided further, that no Unit Owner shall be permitted to acquire or own more than two (2) Parking Units (in addition to the Parking Space appurtenants to the Unit). The remaining 5 parking areas shall be for visitor parking.

The use and occupancy of all parking areas, including Parking Spaces and Parking Units, shall be for the parking of automobiles, motorcycles, trailers, and other wheeled conveyances. The Management Committee may by rule or regulation allow other uses of the parking areas not inconsistent with this Declaration and the Bylaws appended hereto.

The Parking Spaces and Parking Units, their number and location are contained on Exhibit A and made a part hereof as if herein set forth in full.

The Management Committee shall maintain as a common expense all parking areas.

13. Certain Obligations of Owners. Except for those portions (if any) which the Management Committee is required to maintain and repair hereunder, each Unit Owner shall at his expense keep the interior of his Unit, its equipment, furniture and furnishings, and appurtenances in good order, condition and repair and in a clean and sanitary condition, and shall do all redecorating, painting and varnishing which may at any time be necessary to maintain the good appearance and condition of his Unit. In addition to decorating and keeping the interior of the Unit in good repair, the Unit Owner shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, lighting fixtures, appliances, carpeting and other furniture and furnishings that may be in or connected with the Unit.

The design of the Building has resulted in certain installations for air conditioning and heating being characterized under the Condominium Act as Limited Common Areas and Facilities. Notwithstanding that fact, the Unit Owner shall be responsible for the cost of maintenance, repair or replacement of the air conditioning and heating equipment serving his Unit. When more than one Unit is served by such equipment, such costs shall be shared equally among those Unit Owners; provided that maintenance,

replacement or repair of air conditioning or heating equipment serving more than one Unit shall be at the direction of the Management Committee or Manager.

The Management Committee shall not be responsible to the Unit Owner for loss or damage by theft or otherwise of articles which may be stored by the Unit Owner in his Unit or the Limited Common Areas and Facilities appurtenant thereto.

The Unit Owner shall promptly discharge any lien (other than Mortgage liens) which may hereafter be filed against his Condominium.

14. Prohibition Against Structural Changes by Unit Owner. No Unit Owner shall, without first obtaining written consent of the Management Committee, make or permit to be made any structural alteration, improvement or addition in or to his Unit or in or to the Common Areas and Facilities or in or to any Limited Common Areas and Facilities. No Unit Owner shall do any act or work that will impair the structural soundness or integrity of the Building or safety of the Property or impair any easement or hereditament without the written consent of all Unit Owners. No Unit Owner shall paint or decorate any portion of the exterior of the Building or other Common Areas and Facilities or Limited Common Areas and Facilities without first obtaining written consent of the Management Committee.

15. Entry for Repairs. The Management Committee and their respective agents may enter any Unit when necessary in connection with any maintenance, landscaping or construction for which the Management Committee is responsible. Such entry shall be made with as little inconvenience to the Unit Owners as practicable, and any damage caused thereby shall be promptly repaired by the Management Committee out of the Common Expense Fund.

16. Failure to Insist on Strict Performance No Waiver. The failure of the Association of Unit Owners or Management Committee to insist, in any one or more instances, upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, or to exercise any right or option herein contained, or to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment, for the future, of such term, covenant, condition or restriction; but such term, covenant, condition or restriction shall remain in full force and effect. The receipt and acceptance by the Management Committee of any assessment from a Unit Owner, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by the Management

Committee of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Management Committee or its designee.

17. Limitation of Management Committee Liability. The Management Committee shall not be liable for any failure of any service to be obtained and paid for by the Management Committee hereunder, or for injury or damage to person or property caused by the elements or by another Unit Owner or person, or resulting from electricity, water or rain which may leak or flow from outside or from any parts of the Building, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other place, unless caused by gross negligence of the Management Committee. No diminution or abatement of Common Expense assessments shall be claimed or allowed for inconveniences or discomfort arising from the making of repairs or improvements to the Common Areas and Facilities or from any action taken to comply with any law, ordinance or order of a governmental authority.

18. Indemnification of Management Committee Members. Each member of the Management Committee shall be indemnified by the Unit Owners against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party or in which he may become involved, by reason of his being or having been a member of the Management Committee, or any settlement thereof, whether or not he is a member of the Management Committee at the time such expenses are incurred, except in such cases wherein the member of the Management Committee is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties and except to the extent such liability, damage or injury is covered by insurance; provided that in the event of a settlement the indemnification shall apply only when the Management Committee approves such settlement as being for the best interests of Market Street.

19. Insurance. The Management Committee shall obtain and maintain at all times insurance of the type and kind and in at least the amounts provided in the Bylaws and including insurance for such other risks, of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to other condominium properties similar in construction, design and use to Market Street. Such insurance shall be governed by the following provisions:

(a) Exclusive authority to adjust losses under policies hereafter in force on the Property shall be vested in, and the proceeds thereof payable to, the Management Committee or its authorized representative as insurance trustee.

(b) In no event shall the insurance coverage obtained and maintained by the Management Committee hereunder be brought into contribution with insurance purchased by individual Unit Owners or their Mortgagees.

(c) Each Unit Owner may obtain additional insurance at his own expense, provided, however, that no Unit Owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Management Committee, on behalf of all of the Unit Owners, may realize under any insurance policy which the Management Committee may have in force on the Property at any particular time.

(d) Each Unit Owner shall notify the Management Committee of all improvements made by the Unit Owner to his Unit, the value of which is in excess of \$1,000.

(e) Any Unit Owner who obtains individual insurance policies covering any portion of the Property, other than personal property belonging to such Unit Owner, shall file a copy of such individual policy or policies with the Management Committee within 30 days after purchase of such insurance.

(f) The Management Committee shall make every effort to secure insurance policies that will provide for the following:

- (1) A waiver of subrogation by the insurer as to any claims against the Management Committee, the Unit Owners and their respective servants, agents and guests;
- (2) That the master policy on the Property cannot be cancelled, invalidated or suspended on account of the conduct of any one or more individual Unit Owners.
- (3) That the master policy on the Property cannot be cancelled, invalidated or suspended on account of the conduct of any officer or employee of the Management Committee without prior demand in writing that the Management Committee cure the defect;
- (4) That any "no other insurance" clause in the master policy on the Property exclude individual Unit Owners' policies from consideration.

(g) The annual insurance review which the Management Committee is required to conduct as provided in Section E.3 of Article II of the Bylaws shall include an appraisal of the improvements on the Property by a representative of the insurance agent writing the master policy.

20. No Partition. There shall be no judicial partition of the Property or any part thereof, nor shall Declarant or any person acquiring any interest in the Property or any part thereof seek any such judicial partition, until the happening of the conditions set forth in Section 6 of this Declaration in the case of damage or destruction or unless the Property has been removed from the provisions of the Condominium Act as provided in Section 57-8-22 of that Act; provided, however, that if any Unit shall be owned by two or more co-tenants as tenants in common or as joint tenants, nothing herein contained shall be deemed to prevent a judicial partition as between such co-tenants so long as the Institutional Holder of any first Mortgage on such Unit gives prior written approval. Such partition shall not affect any other Condominium.

21. Enforcement. Each Unit Owner shall comply strictly with the provisions of this Declaration, the Bylaws and the rules, regulations and decisions issued pursuant thereto and as the same may be lawfully amended from time to time. Failure to so comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Management Committee on behalf of the Association of Unit Owners, or in a proper case, by an aggrieved Unit Owner.

22. Personal Property. The Management Committee may acquire and hold, for the benefit of the Association of Unit Owners, tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in such personal property shall be held by the Unit Owners in the same proportion as their respective undivided interests in the Common Areas and Facilities, and shall not be transferrable except with a transfer of a Condominium. A transfer of a Condominium shall vest in the transferee ownership of the transferor's beneficial interest in such personal property.

At the time when the first conveyances of Units are made by Declarant to the Unit Owners, Declarant shall execute and deliver a bill of sale to the Association of Unit Owners, transferring title to all items of personal property located on the Property and furnished by Declarant, which personal property is intended for the common use and enjoyment of the Unit Owners.

23. Abandonment or Termination. Except as otherwise provided for herein and except as otherwise provided by law there shall be no abandonment or termination of the condominium regime provided for herein except with the prior written approval of each Institutional Holder of a first Mortgage lien on the Units.

24. Condemnation or Eminent Domain. If any Unit or portion thereof or the Common Areas and Facilities or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the Management Committee will notify, in writing, the Institutional Holder of any first Mortgage on a Unit which would be affected by such proceeding or proposed acquisition.

25. Exclusive Listing. All Unit Owners grant Declarant or its nominee an automatic exclusive listing whereby the Unit Owner agrees to pay Declarant or its nominee a commission at the prevailing market rates for any Unit sold within one year of the date of the closing between Declarant and said Unit Owner for such Unit.

26. Special Notice. The following special provisions shall apply, as appropriate, to the use of the Property:

(a) Declarant's and Unit Owners' use and display of any signs pursuant to Sections 4(f) and (l) above shall be in compliance with all applicable Salt Lake City ordinances;

(b) When Declarant ceases to make use of Units under Section 4(l), such Units shall be thereafter used only for residential purposes and Declarant shall not make any commercial use thereof.

(c) Notice is hereby given to all Unit Owners that the Property contains fewer full-size parking spaces than required by Salt Lake City Ordinances pursuant to a variation granted Declarant by the Salt Lake City Board of Adjustment, Case No. 7716, prior to development of Market Street Place.

27. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a condominium project.

28. Amendment. Except as otherwise provided herein and except as prohibited by the Condominium Act, the provisions of this Declaration and the Bylaws set forth in Appendix B may be amended by an instrument in writing, signed and acknowledged, by Owners owning 75% of the voting power which amendment shall be



effective upon recordation with the Recorder of Salt Lake County. Provided, however, the written consent of each Institutional Holder of a first Mortgage on a Unit shall be required to amend the following:

(a) Any provision altering the fractions of undivided interest in the Common Areas and Facilities or voting rights;

(b) Any provision amending Section 10 of the Declaration;

(c) Any other provision or section of this Declaration or the Bylaws which would prejudice the interest of the Institutional Holders of first Mortgages on the Units.

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

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

31. Law Controlling. This Declaration and the Bylaws attached hereto shall be construed and controlled by and under the laws of the State of Utah.

32. Effective Date. This Declaration shall take effect when recorded with the Recorder of Salt Lake County.

IN WITNESS WHEREOF, the undersigned have executed this instrument this 25<sup>th</sup> day of FEBRUARY, 1980.

BARA INVESTMENT CORPORATION

By Mazih M. Mahmood  
Its President

BOOK 5073  
PAGE 70

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

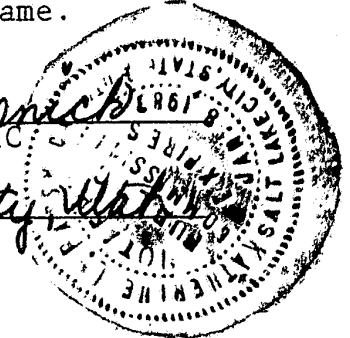
On this 25<sup>th</sup> day of February, 1980, personally appeared before me Nazih Mahmood, who being by me duly sworn did say, that he the said Nazih Mahmood is the President of said corporation, and that the foregoing instrument was signed in behalf of said corporation and he duly acknowledged to me that said corporation executed the same.

Katherine L Basnick  
NOTARY PUBLIC

Residing at Salt Lake City, Utah

My Commission Expires:

1-8-83



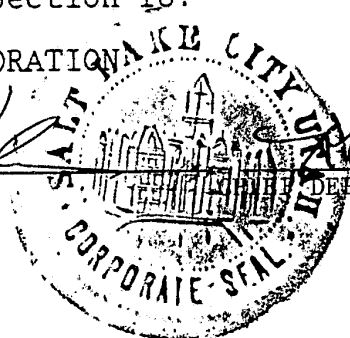
SALT LAKE CITY APPROVAL

On this 20<sup>th</sup> day of March, 1980, Salt Lake City Corporation, a body corporate and politic in the municipality in which Market Street Place (a condominium project) is to be located, hereby gives final approval to the said condominium project, to the foregoing Declaration and the Bylaws attached thereto and to those attributes of said condominium project which are mentioned in Section 57-8-35(3) of the Utah Condominium Ownership Act as amended and expanded by Laws of Utah 1975, Chapter 173, Section 18.

SALT LAKE CITY CORPORATION

By:

[Signature]  
MAYOR



Katherine L Basnick  
DEPUTY - CITY RECORDER

BOOK 5073 PAGE 71

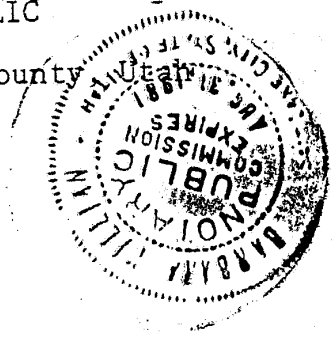
STATE OF UTAH )  
 )  
 ) : ss.  
COUNTY OF SALT LAKE )

On this 20th day of March, 1980, personally  
appeared before me TED L. WILSON and  
KATHERINE L. BARNICK, known to me to be the Mayor and  
City Recorder respectively of Salt Lake City Corporation, a body  
Corporate and politic who duly acknowledged to me that they  
executed the foregoing instrument on behalf of said municipality  
pursuant to authority.

*Barbara Kellison*  
NOTARY PUBLIC

Residing at Salt Lake County, Utah

My Commission Expires:  
8-31-81



APPENDIX A

<u>UNIT NO.</u>	<u>SQ. FT.</u>	<u>FRACTIONAL INTERESTS</u>	<u>PARKING SPACE</u>
101	1200	1/22	19
102	1200	1/22	20
103	1200	1/22	21
104	1200	1/22	25
105	1200	1/22	26
106	1200	1/22	27
107	1200	1/22	32
108	1200	1/22	33
109	1200	1/22	10
201	1200	1/22	16
202	1200	1/22	12
203	1200	1/22	11
301	1200	1/22	1
302	1200	1/22	2
303	1200	1/22	3
304	1200	1/22	4
305	1200	1/22	5
306	1200	1/22	6
307	1200	1/22	8
308	1200	1/22	9
309	1200	1/22	18
401	1200	1/22	17

PARKING UNITS

(none)	7
(none)	10
(none)	13
(none)	14
(none)	15
(none)	22
(none)	23
(none)	24
(none)	28
(none)	29
(none)	30
(none)	31
(none)	34
(none)	35
(none)	36
(none)	37

APPENDIX B  
BYLAWS OF  
MARKET STREET PLACE  
(a condominium project)

I. Application of Bylaws.

All present and future Unit Owners, Mortgagees, and occupants of Units and their lessees, renters, agents, servants, and guests, and any other persons who may use the facilities of the Property in any manner are subject to the Declaration, these Bylaws and Rules and Regulations made pursuant hereto, and any amendment to these Bylaws upon the same being passed and duly recorded.

The acceptance of a deed or conveyance, the entering into of a contract for purchase or a lease, or the act of occupancy of a Unit shall constitute an agreement that these Bylaws and any Rules and Regulations made pursuant hereto and the Declaration, as they may be amended from time to time, are accepted, ratified, and will be complied with.

II. Management Committee.

The affairs of the Association of Unit Owners shall be conducted by a Management Committee composed of three (3) members.

A. Election

At each annual meeting, subject to the provisions of Section K of this Article II, the Unit Owners shall elect members of the Management Committee for the forthcoming year; provided, however, the first Management Committee elected hereunder may be elected at a special meeting duly called, said Management Committee to serve until the first annual meeting held thereafter. Nominations for the Management Committee shall be made by the Unit Owners from the floor in accordance with the Parliamentary Rules set forth hereinafter at the annual meeting. At least two members of the Management Committee shall be required to be Unit Owners.

B. Term

Members of the Management Committee shall serve for a term of two years; provided, however, that initially two of the three members of the first Management Committee elected shall serve for a one-year term. The other member shall serve for a two-year term. Thereafter, all members elected each year shall serve for a two-year term. The members of the Management Committee shall serve

until their respective successors are elected, or until their death, resignation or removal.

C. Resignation and Removal

Any member of the Management Committee may resign at any time by giving written notice to the President and Management Committee, and any member may be removed from membership on the Management Committee by an affirmative vote of fifteen (15) Unit Owners. Whenever there shall occur a vacancy on the Management Committee due to death, resignation, removal or any other cause, the remaining members shall elect a successor to serve until the next annual meeting of the Association of Unit Owners, at which time said vacancy shall be filled for the unexpired term.

D. Compensation

The Management Committee shall receive no compensation for their services unless expressly provided for and approved in writing by not less than twelve (12) Unit Owners.

E. Powers and Authority of the Management Committee

The Management Committee, for the benefit of Market Street and the Unit Owners, shall enforce the provisions of the Declaration, Bylaws and Rules and Regulations governing the Property and, subject to the provisions of Article V hereof, shall acquire or arrange for and pay for out of the Common Expense Fund the following:

1. Water, sewer, garbage collection and other necessary utility service for the Common Areas and Facilities;

2. Water, sewer and other necessary utility costs for Units and Limited Common Areas and Facilities which are not separately metered or charged;

3. A policy or policies of fire insurance, with extended coverage endorsements, for the full insurable replacement value of the Units and Common Areas and Facilities, or such other fire and casualty insurance as the Management Committee shall determine gives substantially equal or greater protection to the Unit Owners and their Mortgagees. The limits and coverage of such policies shall be reviewed at least annually by the Management Committee and increased in its discretion. Insurance proceeds shall be payable and applicable as provided in Sections 6 and 19 of the Declaration;

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4. A policy or policies of public liability insurance insuring the Management Committee, the Association of Unit Owners and the individual Unit Owners against any liability to any person or persons incident to the ownership and/or use of the Property. Such policy or policies shall be consistent with the provisions of Section 19 of the Declaration. Limits of liability under such insurance shall not be less than \$500,000 for any one or more persons injured in any one accident, and shall not be less than \$100,000 for property damage for each occurrence (such limits and coverage to be reviewed at least annually by the Management Committee and increased 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 any named insured under the policy or policies shall not be prejudiced as respects his, her or their action against another named insured;

5. Workmen's Compensation Insurance to the extent necessary to comply with any applicable laws;

6. Notwithstanding any other provision herein, the Management Committee shall continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for condominium projects established by Federal National Mortgage Association and Government National Mortgage Association, so long as either is a mortgagee or owner of a condominium within the project except to the extent such coverage is not available or has been waived in writing by Federal National Mortgage Association or Government National Mortgage Association.

7. The services of a Manager providing professional services (the "Manager") to manage its affairs as provided in Article IX hereof, to the extent deemed advisable by the Management Committee, as well as such other personnel as the Management Committee shall determine shall be necessary or proper for the operation of the Common Areas and Facilities, whether such personnel are employed directly by the Management Committee or are furnished by the Manager;

8. Legal and accounting services necessary or proper in the operation of the Common Areas and Facilities or the enforcement of the Declaration;

9. A fidelity bond naming the Manager and such other persons as may be designated by the Management Committee as principals and the Unit Owners as obligees in an amount to be determined by the Management Committee;

10. Painting, maintenance, repair and all landscaping of the Common Areas and Facilities and of all parking areas, and such furnishings and equipment for the Common Areas and Facilities as the Management Committee shall determine are necessary and proper, and the Management Committee shall have the exclusive right and duty to acquire the same for the Common Areas and Facilities; provided, however, that the interior surfaces of each Unit shall be painted, maintained and repaired by the Unit Owner thereof, all such maintenance to be at the sole cost and expense of that particular Unit Owner;

11. Any other materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments which the Management Committee is required to secure or pay for pursuant to the terms of the Declaration or Bylaws or which in its opinion shall be necessary or proper for the operation of the Common Areas and Facilities or for the enforcement of the Declaration, provided that if any such materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments are provided for particular Units, the cost thereof shall be specially assessed to the owners of such Units;

12. Maintenance and repair of any Unit, if such maintenance or repair is reasonably necessary in the discretion of the Management Committee to protect the Common Areas and Facilities or preserve the appearance and/or value of the Property, and the Unit Owner of said Unit has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity therefor delivered by the Management Committee to said Unit Owner, provided that the Management Committee shall levy a special assessment against the Condominium of such Unit Owner for the cost of said maintenance or repair;

13. The Management Committee shall have the exclusive right to contract for all goods, services and insurance, payment for which is to be made from the Common Expense Fund. This provision shall not be construed to prohibit the Management Committee from delegating such authority to the Manager as it deems proper.

F. Additional Powers of the Management Committee

The Management Committee shall have the right to acquire, operate, lease, manage and otherwise trade and deal with property real and personal, including Condominiums, as may be necessary or



convenient in the operation and management of the Property, and in accomplishing the purposes set forth in the Declaration.

G. Regular Meetings of the Management Committee

Two members of the Management Committee shall constitute a quorum and, if a quorum is present, the decision of a majority of those present shall be the act of the Management Committee. The Management Committee shall annually elect all of the officers of the Association of Unit Owners as set forth in Article IV of these Bylaws. The officers shall be elected at a meeting of the Management Committee to be called immediately following the annual meeting of the Association of Unit Owners.

H. Special Meetings of the Management Committee

Special meetings of the Management Committee may be called by or at the request of the President or by any two Management Committee members.

I. Notice of Meetings

Regular meetings of the Management Committee may be held without notice. The person or persons calling a special meeting of the Management Committee shall, at least ten days before the meeting, give notice thereof by any usual means of communication. Such notice need not specify the purpose for which the meeting is called; if an agenda is prepared for such a meeting, the meeting need not be restricted to discussions of those items listed on the agenda.

J. Waiver of Notice

Any member of the Management Committee may, at any time, waive notice of any meeting of the Management Committee in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member at a meeting shall constitute a waiver of notice of such meeting except where a member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the members of the Management Committee are present at any meeting thereof, no notice shall be required and any business may be transacted at such meeting.

K. Declarant's Option to Appoint

Until the earlier of a date when sixteen (16) Units have been sold and closed or three years from the recording of the Declaration, the members of the Management Committee shall at

Declarant's option be appointed by Declarant. One hundred and twenty days after the earlier of the dates provided for hereinabove, the terms of all members of the Management Committee who were appointed by Declarant shall expire and at such time the Association of Unit Owners shall have the responsibility of electing replacement members of the Management Committee.

L. Notice of Election

After the first election of the Management Committee, Declarant shall execute, acknowledge and record an affidavit stating the names of all of the members of the Management Committee. Thereafter, any two persons who are designated of record as being members of the most recent Management Committee (regardless of whether or not they shall still be members) may execute, acknowledge and record an affidavit stating the names of all of the members of the then current Management Committee; provided, that, in the event of the disability or other incapacity of two such persons, Manager shall be empowered to execute the aforesaid affidavit. The most recently recorded of such affidavits shall be prima facie evidence that the persons named therein are all of the incumbent members of the Management Committee and shall be conclusive evidence thereof in favor of all persons who rely thereon in good faith.

M. Fiscal Year

The fiscal year shall be as determined by the Management Committee.

III. Meetings of the Association of Unit Owners.

The presence in person or by proxy at any meeting of the Association of Unit Owners of twelve (12) Unit Owners, in response to notice to all Unit Owners of record properly given in accordance with Section 9 of the Declaration, shall constitute a quorum. Upon request, any Institutional Holder of a first Mortgage on a Unit shall be entitled to written notice of all meetings of the Association of Unit Owners and to designate a representative to attend all such meetings. In the event that the total number of Unit Owners present does not equal twelve (12), the meeting shall be adjourned for 24 hours, at which time it shall reconvene and the presence of eight (8) Unit Owners shall constitute a quorum. Unless otherwise expressly provided in the Declaration, any action may be taken at any meeting of the Association of Unit Owners upon the affirmative vote of a majority of the voting power of the Unit Owners present and voting provided that a quorum is present as provided for above.

A. Annual Meeting

There shall be a meeting of the Association of Unit Owners on the last Saturday of January of each year at 2:00 p.m. on the Property or at such other reasonable place or time (not more than 60 days before or after such date) as may be designated by written notice of the Management Committee delivered to the Unit Owners not less than 30 days prior to the date fixed for said meeting. At or prior to such meeting, the Management Committee shall furnish to the Unit Owners a budget for the current fiscal year that shall itemize the estimated Common Expenses of the fiscal year with the estimated allocation thereof to each Unit Owner, and a statement of the Common Expenses, itemizing receipts and disbursements, for the preceding fiscal year, together with the allocation thereof to each Unit Owner.

B. Special Meetings

Special meetings of the Association of Unit Owners may be called at any time for the purpose of considering matters which, by the terms of the Declaration, require the approval of all or some of the Unit Owners, or for any other reasonable purpose. Said meetings shall be called by written notice, signed by a majority of the Management Committee or by any eight (8) Unit Owners and delivered not less than 30 days prior to the date fixed for said meeting. Said notices shall specify the date, time and place of the meeting, and the matters to be considered thereat.

C. Parliamentary Rules

Robert's Rules of Order (latest edition) shall govern the conduct of Association meetings when not in conflict with the Declaration or these Bylaws.

IV. Officers of the Association.

The officers of the Association of Unit Owners shall be a President, Vice President, Secretary, and Treasurer. Any of the offices may, by direction of the Management Committee, be combined as one office. Any officer must be a Unit Owner. The President must be a member of the Management Committee. No officer shall receive compensation for serving as such. Officers shall be annually elected by, and may be removed and replaced by, the Management Committee. The Management Committee may in its discretion require that officers be subject to fidelity bond coverage.

A. President

The President shall preside at all meetings of the Association of Unit Owners and of the Management Committee and may exercise the powers of a presiding officer of an association including the appointment of committees.

B. Vice President

The Vice President shall perform the functions of the President in the absence or inability of the President.

C. Secretary

The Secretary shall keep minutes of all proceedings of the Management Committee and of the meetings of the Association of Unit Owners and shall keep such books and records as may be necessary and appropriate for the records of the Association and its Management Committee.

D. Treasurer

The Treasurer shall be responsible for the fiscal affairs of the Association, but may delegate the daily handling of income and expense payments to the authorized Manager employed by the Association.

V. Maintenance, Repair and Replacement of Common Areas and Facilities.

It shall be the responsibility of the Management Committee to determine questions relating to the maintenance, repair and replacement of all Common Areas and Facilities. There shall be no structural alterations, capital additions to, or capital improvements of the Common Areas and Facilities requiring an expenditure in excess of \$2,000.00 for any single expenditure or a total of \$5,000.00 in any fiscal year without 30 days prior notice to all Unit Owners. Unless within the aforementioned 30 day period Unit Owners holding the majority of the total voting power of the Association of Unit Owners shall give notice of disapproval of such structural alterations, capital additions to, or capital improvements of the Common Areas and Facilities, the Unit Owners shall be deemed to have approved the same. Notwithstanding the foregoing, the Management Committee shall have authority to cause to be performed such repairs of the Common Areas and Facilities as it may deem necessary to preserve the same against loss or destruction.

VI. Common Expenses.

A. Assessments

1. Within 30 days prior to the annual meeting, the Management Committee shall estimate the net charges to be paid during the current fiscal year, including a reasonable provision for contingencies and replacements and less any expected income and any surplus from the prior fiscal year's operation, together with the estimated utility costs for Units and Limited Common Areas and Facilities which are not separately metered or charged. Said "Estimated Cash Requirement" shall be approved at the annual meeting and assessed monthly to the Unit Owners pursuant to the Declaration and Appendix A thereof. Declarant will be liable for the amount of any assessment against Units owned by Declarant. If said estimated sum proves inadequate for any reason, including nonpayment of any Unit Owner's assessment, the Management Committee may at any time levy a further assessment, which shall be assessed to the Unit Owners in like proportion unless otherwise provided herein. Each Unit Owner shall be obligated to pay assessments made pursuant to this paragraph to the Management Committee on or before the first day of each month, or in such other reasonable manner as the Management Committee shall designate.
2. The monthly payments made by Unit Owners shall be kept in separate accounts as the Management Committee may deem proper, including accounts for general working capital, for the general operating reserve, and for a reserve fund for replacements and major maintenance.
3. All funds collected hereunder shall be expended for the purposes designated in the Declaration or Bylaws.
4. The omission by the Management Committee before the expiration of any fiscal year to fix the Estimated Cash Requirement hereunder for that or the next year shall not be deemed a waiver or modification in any respect of the provisions of the Declaration or a release of the Unit Owner from the obligation to pay the assessments or any installment thereof for that or any subsequent year, but the Estimated Cash Requirement fixed for the preceding year shall continue until a new requirement is fixed. Amendments to this Article VI shall be effective only upon unanimous written consent of the Unit Owners and their Mortgagees. No Unit Owner may exempt himself from liability for 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.

5. The Manager or Management Committee shall keep accurate records of the receipts and expenditures affecting the Common Areas and Facilities specifying and itemizing the maintenance and repair expenses of the Common Areas and Facilities and any other expenses incurred. Records and vouchers authorizing the payments involved shall be available for examination by any Unit Owner at convenient hours of week days.

6. Anything contained herein to the contrary notwithstanding, the Management Committee shall at all times treat all funds of the Association of Unit Owners so as to avoid adverse income tax consequences, including, but not limited to applying surplus funds toward expenses so that no common profits accrue to the Association and maintaining any reserves of the Association in a manner that will not result in these sums being treated as taxable income to the Association.

B. Default in Payment of Assessments

Each assessment (including all monthly installments under Article VI.A.1) and each special assessment shall be separate, distinct and personal debts and obligations of the Unit Owner against whom the same are assessed at the time the assessments are made and shall be collectible as such. The Management Committee shall have the right to impose a reasonable late charge for nonpayment of Common Expense payments within 15 days of the date such payments became due. 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 Unit Owner of any Condominium plus interest at the highest legal rate permitted by Utah law and costs, including reasonable attorneys' fees, shall become a lien upon such Condominium upon recordation of a notice of assessment by the Management Committee. The said lien for nonpayment 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 Condominium in favor of any taxing authority, and
2. All sums unpaid on a first Mortgage of record on the Condominium.

A certificate executed and acknowledged by a majority of the Management Committee stating the indebtedness secured by the lien provided for under this Section B upon any Condominium shall be

conclusive upon the Management Committee and the Unit 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 Unit Owner or any encumbrancer or prospective encumbrancer of a Condominium upon request at a reasonable fee. Unless the request for a certificate of indebtedness shall be complied with within ten days, all unpaid Common Expenses which became due prior to the date of the making of such request shall be subordinate to the lien held by the person making the request. Any encumbrancer holding a lien on a Condominium may pay any unpaid Common Expenses payable with respect to such Condominium and upon such payment such encumbrancer shall have a lien on such Condominium for the amounts paid of the same rank as the lien of his encumbrance.

Upon payment or other satisfaction of a delinquent assessment concerning which such a certificate has been so recorded, the Management Committee shall cause to be recorded in the same manner as the certificate of indebtedness a further certificate stating the satisfaction and the 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, attorney, or title insurance company authorized by the Management Committee, such sale to be conducted in accordance with the provisions of 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 Unit Owner shall be required to pay the costs and expenses of such proceedings and reasonable attorney's fees.

In case of foreclosure, the Unit 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 the Manager acting on its behalf shall have the power to buy in the Condominium at foreclosure or other sale and to hold, lease, mortgage and convey the Condominium.

#### VII. Abatement and Enjoinment of Violations by Unit Owners.

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

A. to enter the Unit in which or as to which such violation or breach exists and to summarily abate and remove, at

the expense of the defaulting Unit Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Management Committee shall not thereby be deemed guilty in any manner of trespass; or

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

#### VIII. Rental or Lease of Units by Unit Owners.

Any Unit Owner who rents or leases his Unit shall file with the Management Committee or Manager a copy of the rental or lease agreement affecting said Unit. The provisions of Article VII shall apply with equal force to renters or lessees of Units.

Any Unit Owner who rents or leases his Unit shall be responsible for the conduct of his tenants, and upon written notice from the Management Committee or the Manager said Unit Owner shall be responsible for correcting violations of the Declaration, Bylaws, or Rules and Regulations of Market Street committed by such tenants.

If a Unit Owner fails to correct violations by tenants within 72 hours of such notice, the Management Committee or Manager shall be deemed to be the agent of the Unit Owner and empowered to take any enforcement action the Unit Owner would be entitled to take, the cost of such action to be assessed to the Unit Owner and payable within 30 days of assessment. Such costs shall be collected and enforced in the same manner as common assessments under Article VI. B. of these Bylaws.

The power of the Management Committee or Manager hereunder shall include but not be limited to any and all legal remedies available under the laws of the State of Utah. Any Unit Owner by the act of renting or leasing his Unit shall be deemed to have consented to these procedures and shall indemnify and save harmless the Management Committee and the Manager from and against any and all liability therefor. It is expressly understood that the remedies available to the Management Committee or Manager shall include but not be limited to the right to seek eviction of the tenant without any liability to the Unit Owner.

With the exception of an Institutional Lender in possession of a Unit following a default in a first mortgage, a foreclosure proceeding or any deed or any other arrangement in lieu thereof, a Unit Owner shall not be permitted to lease his Unit for transient or hotel purposes. No Unit Owner may lease less than the entire Unit. Any Lease shall be required to be in writing and shall



provide that the terms of the Lease shall be subject in all respects to the provisions of the Declaration and these Bylaws and any failure by a Lessee to comply with the terms of such Declaration and Bylaws shall be deemed a default under the Lease.

IX. Manager.

Declarant or any successor Management Committee may delegate any of its duties, powers or functions (including but not limited to the authority to give the certificate provided for in Article VI.B hereof and the authority to give the subordination agreements provided for in Section 12 of the Declaration) for such period of time and pursuant to such terms and conditions as either deems advisable to any person or firm designated to act as a Manager of the project. Any management agreement entered into shall be terminable by the Management Committee for cause upon 30 days written notice thereof, and the term of any such agreement shall not exceed one (1) year but may be renewable by agreement of the parties for successive one year periods. Provided, however, the effectuation of any decision by the Management Committee to terminate professional management and assume self management of the project shall require the prior written approval of each Institutional Holder of a first Mortgage lien on the Units. Any such delegation which extends beyond the term of office of the delegator shall be binding upon the successor Management Committee. Neither Declarant nor the members of the Management Committee shall be liable for any omission or improper exercise by the Manager of any of such duties, powers or functions so delegated by written instrument executed by Declarant or a majority of the Management Committee as the case may be.

X. Special Committees.

The Management Committee by resolution may designate one or more special committees, each committee to consist of two or more Unit Owners, which, to the extent provided in said resolution, shall have and may exercise the powers set forth in said resolution. Such Special Committee or Committees shall have such name or names as may be determined from time to time by the Management Committee. Such Special Committees shall keep regular minutes of their proceedings and report the same to the Management Committee when required. The members of such Special Committee or Committees designated shall be appointed by the Management Committee. The Management Committee may appoint Unit Owners to fill vacancies on any of said Special Committees occasioned by death, resignation, removal or inability to act for any extended period of time.

XI. Rules and Regulations.

The Management Committee shall have the right to adopt and amend such Rules and Regulations as may be authorized by the Condominium Act and Declaration for the purpose of governing the details of the operation and use of the Common Areas and Facilities and setting forth restrictions on, and requirements respecting the use and maintenance of Units, the parking areas, and Common Areas and Facilities. Copies of the Rules and Regulations shall be furnished to each Unit Owner prior to the time the same shall become effective.

XII. Audit.

Any Unit Owner may at any reasonable time at his own expense cause an audit or inspection to be made of the books of account of the Manager or Management Committee pertaining to the Property. The Management Committee, as a Common Expense, shall obtain an annual audit by an independent public accountant of the books of account pertaining to the Property and furnish copies thereof to the Unit Owners and all Institutional Holders of first Mortgages within 90 days following the end of the fiscal year.

XIII. Terms.

The terms used herein shall have the same meanings as provided in the Declaration and the Condominium Act.

XIV. Books and Records.

All Unit Owners and all Institutional Holders of a first Mortgage on a Unit shall be entitled to inspect the books and records of Market Street during normal business hours.

XV. Interpretation.

The provisions of these Bylaws shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a condominium property. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

XVI. Severability.

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

XVIII. Captions.

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

XIX. Effective Date.

These Bylaws shall take effect upon recording of the Declaration of which they are a part.