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APPENDIX "C"

BY-LAWS OF POLARIS GARDENS CONDOMINIUMS

ARTICLE I

Plan of Condominium Unit Ownership

Section 1. Condominium Unit Ownership. The property located at 211 East 5th Avenue, Salt Lake City, Utah, and more particularly described in Appendix "A", hereinafter called the "condominium", has been submitted to the provisions of the Utah Condominium Ownership Act, by the Declaration recorded in the Office of the County Recorder, Salt Lake County, State of Utah, simultaneously herewith.

Section 2. Applicability of By-Laws. The provisions of these By-Laws are applicable to the condominium and to the use and occupancy thereof. The term "condominium property", as used herein, shall include the land, the buildings and all other improvements thereon, all easements, rights and appurtenances belonging thereto, and all other property, personal or mixed, intended for use in connection therewith, all of which are intended to be submitted to the provisions of the Utah Condominium Ownership Act.

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

Section 4. Offices. The office of the condominium and of the Board of Directors shall be located at 211 East 5th Ave., Salt Lake City, Utah.

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K. S. F. O'Connell  
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ARTICLE II

Board of Directors

Section 1. Number and Qualification. The affairs of the condominium shall be governed by the Board of Directors of the Polaris Gardens Unit Owners Association, a non-profit association. Said Association may remain an unincorporated association or may be formed into a non-profit corporation as the unit owners deem necessary. However, regardless of form, all Articles herein are applicable and binding. Until three years have elapsed from the time the Declaration and By-Laws have been recorded or at such earlier time as the Declarant, in its sole discretion, may determine, and thereafter until their successors shall have been elected by the unit owners, the Declarant shall have the right to select the Board of Directors. The Board of Directors, during the course of conversion, shall consist of such persons or agents of the Declarant as shall have been designated by the Declarant. Thereafter, the Board of Directors shall be composed of Three (3) persons, all of which shall be the owners, spouses of owners or mortgagees of condominium units; or, in the case of partnership owners or mortgagees, members or employees of such partnership, or in the case of corporate owners or mortgagees, officers, shareholders or employees of such corporation; or in the case of fiduciary owners or mortgagees, fiduciaries or officers or employees of such fiduciaries.

Section 2. Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the condominium, except as such powers and duties as by law or by the Declaration or by these By-Laws may not be delegated to the Board of Directors by the unit owners. The powers and duties to be exercised by the Board of Directors shall include, but shall not be limited to, the following:

- (a) Operation, care, upkeep and maintenance of the common elements;
- (b) Determination of the amounts required for operation, maintenance and other affairs of the condominium;

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

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

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

(f) Opening of bank accounts on behalf of the condominium and designing the signatures required therefor;

(g) Obtaining insurance for the condominium property including the apartment units, pursuant to the provisions contained in the Declaration; and,

(h) making repairs, additions and improvements to, or alterations of the condominium property, and repairs to and reconstruction of the property in accordance with the provisions of the Declaration after damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings.

(i) Enforcing the terms of the Declaration, By-Laws, or Rules and Regulations through injunction, suit, foreclosure, abatement or any other lawful means.

Section 3. Managing Agent and Manager. The Board of Directors may employ for the condominium a managing agent or manager at a compensation established by the Board, to perform such duties and services as the Board of Directors shall authorize, including, but not limited to, the duties listed as sub-divisions (a), (c), (d), (g), and (h) of section 2 of this Article II. The Board of Directors may delegate to the manager or managing agent, all of the powers granted to the Board of Directors by these By-Laws other than the powers set forth in subdivisions (b), (e), (f), and (i) of Section 2 of this Article II.

Section 4. Election and Term of Office. At the first annual meeting of the unit owners, after the unit owners have assumed management responsibility, the term of office of all three (3) members of the Board of Directors shall be fixed at one (1) year or until the next annual meeting. The unit owners shall then proceed to elect all three (3) Directors to serve for the first term at each annual meeting thereafter

the unit owners shall elect a Board of Directors pursuant to the procedures outlined herein.

Section 5. Removal of Members of Board of Directors. At any regular or special meeting of unit owners, after the unit owners have assumed the management responsibility, any one or more of the members of the Board of Directors may be removed with or without cause by a majority of the unit owners and a successor may then and there or thereafter be elected to fill the vacancy thus created. Any member of the Board of Directors whose removal has been proposed by the unit owners shall be given an opportunity to be heard at the meeting.

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

Section 7. Organization of Meeting. The first meeting of the members of the Board of Directors following the annual meeting of the unit owners shall be held within ten (10) days thereafter, at such time and place as shall be fixed by the unit owners at the meeting at which such Board of Directors shall have been elected, and no notice shall be necessary to the newly elected members of the Board of Directors in order legally to constitute such meeting, providing a majority of the whole Board of Directors shall be present thereat.

Section 8. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the members of the Board of Directors, but at least two such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Directors shall be given by mail or telephone at least three business days prior to the day named for such meeting.

Section 9. Special Meetings. Special meetings of the Board of Directors may be called by the president on three business days' notice to each member of the Board of Directors, given by mail or telephone, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the president or secretary in like manner and on like notice on the written request of at least three members of the Board of Directors.

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

Section 11. Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the members thereof shall constitute a quorum for the transaction of business, and the vote of a majority of the members of the Board of Directors. If, at any meeting of the Board of Directors, there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjournment at which a quorum is present, any business which might have been transacted at the meeting originally called, may be transacted without further notice.

Section 12. Fidelity Bonds. The Board of Directors shall obtain adequate fidelity bonds for all officers and employees of the condominium handling or responsible for condominium funds. The premiums on such funds shall constitute a common expense.

Section 13. Compensation. No member of the Board of Directors shall receive any compensation from the condominium for acting as such.

Section 14. Liability of the Board of Directors. The members of the Board of Directors including Declarant shall not be liable to the unit owners for any mistake of judgement, negligence or otherwise except for their own willful misconduct or bad faith. The unit owners shall indemnify and hold harmless each member of the Board of Directors, including Declarant, against all contractual liability to others arising out of contracts made by the Board of Directors on behalf of the association of unit owners. It is intended that the liability of any unit owner arising out of any contract made by the Board of Directors or out of the indemnity in favor of the members of the Board of Directors shall be limited to such proportion of the total liability thereunder as his interest in the common elements. Every agreement made by the Board of Directors or by the managing agent or manager on behalf of the association of the condominium shall provide that the members of the Board of Directors, the managing agent, or the manager as the case may be, are acting only as agents for the unit owners and shall have no personal liability thereunder (except as unit owners), and that each unit owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his interest in the common elements bears to the interest of all unit owners in the common elements.

Section 15. Right of Entry. The Board of Directors or its duly authorized agents shall have the right to enter any or all units in the case of an emergency originating in or threatening such unit or any part of the project, whether or not the unit owner or occupant thereof is present at the time. The Board of Directors or its duly authorized agent shall also have the right to enter into any and all of said units at all reasonable times as required for the purpose of performing emergency installations, alterations or repairs to the mechanical, electrical or other utility devices or installations located therein or thereon; provided, however, that such emergency installation, alteration or repair is necessary to prevent damage or threatened damage to such unit

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or units in the project; and, provided further, that the unit owner affected by such entry shall first be notified thereof if available and if time and circumstances shall permit.

Section 16. Administrative Rules and Regulations. The Board of Directors shall have the power to adopt, establish and amend by resolution, such building management and operational rules as it may deem necessary for the maintenance, operation, management, and control of the project and the Board of Directors 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 amendment, alteration, or repeal shall be deemed 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 to and be binding upon all unit owners and/or occupants or guests of any unit.

Section 17. Obligation to Comply With Rules. Each unit owner, tenant or occupant of a unit shall comply with the provisions of the Act, Declaration, By-Laws, the rules and regulations, all agreements and determinations lawfully made and/or entered into by the Board of Directors or unit owners, when acting within the scope of their authority and any failure to comply with any of the provisions thereof shall be grounds for an action by the Board of Directors for injunctive relief and/or to recover for any loss or damage resulting therefrom.

ARTICLE III

Unit Owners

Section 1. Annual Meetings. Promptly after the Declarant has given notice of its intention to give up control of the Board of Directors or three years after recordation of the Declaration has elapsed, whichever shall first occur, the Declarant shall notify all unit owners which shall be held within thirty (30) days thereafter on a call issued by the president. At such meeting the officers and directors of the Declarant shall resign as members of the Board of Directors and all responsibility and obligations Declarant may shall cease, and all unit owners, including Declarant, shall elect a new Board of Directors which shall immediately assume all such responsibilities and obligations on behalf of the unit owners. Thereafter, the annual meetings of the unit owners shall be held on the 15th day of January of each succeeding year, unless such date shall occur on a Saturday or Sunday, in which event the meeting shall beheld on the succeeding Monday. At such meetings the Board of Directors shall be elected by ballot of the unit owners in accordance with the requirements of Section 4 of Article II of these By-Laws. After 75% or more of the units shall have been sold by the Declarant and paid for, the unit owners other than Declarant shall be entitled to elect at least two members of the Board of Directors, each of whom shall serve for a term of one year. So long as the Declarant shall own one or more of the apartment units, the Declarant shall be entitled to elect at least one member of the Board of Directors who shall serve for a term of one year. The unit owners may transact such other business at such meetings as may properly come before them.

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

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Section 3. Special Meetings. It shall be the duty of the President to call a special meeting of the unit owners if so directed by resolution of the Board of Directors or upon a petition signed and presented to the Secretary by unit owners owning a total of at least 25% of the common interest. The notice of any special meeting shall state the time, place and purpose of the meeting. No business shall be transacted at a special meeting except as stated in the notice.

Section 4. Notice of Meeting. The Secretary shall mail to each unit owner of record a notice of each annual or special meeting of the unit owners at least ten (10) but not more than twenty (20) days prior to such meeting, stating the purpose thereof as well as the time and place where it is to be held, at the building or at such other address as such unit owner shall have designated by notice of meeting in the manner provided in this section shall be considered service of notice.

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

Section 6. Order of Business. The order of business at all meetings of the unit owners shall be as follows:

- (a) Roll Call;
- (b) Proof of Notice of Meeting;
- (c) Reading of Minutes of Preceding Meeting;
- (d) Reports of Officers;
- (e) Report of Board of Directors;
- (f) Reports of Committees;
- (g) Election of Inspectors of Election (when so required);
- (h) Election of Members of the Board of Directors (when so required);
- (i) Unfinished Business; and
- (j) New Business.

Section 7. Title to Condominium Units. Title to condominium units may be taken in the name of an individual or the names of two or more persons, as tenants in common or joint tenants, or, in the name of a corporation or partnership, or in the name of a fiduciary.

Section 8. Voting. The owner or owners of each condominium unit, or some person designated by such owner or owners to act as proxy on his or their behalf and who need not be an owner, shall be entitled to cast the votes appurtenant to such condominium unit at all the meetings of unit owners. The designation of any such proxy shall be made in writing to the Secretary, and shall be revocable at any time by written notice to the Secretary, by the owner or owners so designating. The total number of votes of all unit owners shall be 18 and each unit owner (including the Declarant and the Board of Directors or its designee, shall then hold title to one or more condominium units) shall be entitled to cast one vote at all meetings of the unit owners. A fiduciary shall be the voting member with respect to any condominium owned in a fiduciary capacity.

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

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

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

ARTICLE IV

Officers

Section 1. Designation. The principal officers of the condominium shall be the President, the Vice President, the Secretary, the Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint an Assistant Treasurer and Assistant Secretary and such other officers as in its judgement may be necessary. The president and Secretary must be members of the Board of Directors.

Section 2. Election of Officers. Officers shall be elected annually by the Board of Directors at the organization meeting of each new Board of Directors, and shall hold office at the pleasure of the Board of Directors.

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

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

Section 5. Vice President. The Vice President shall take the place of the President and perform his duties whenever the president shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board of Directors to act in the place of the President on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors or by the President.

Section 6. Secretary. The Secretary shall keep the minutes of all meetings of the unit owners and of the Board

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of Directors. He shall have charge of such books and papers as the Board of Directors may direct; and he shall in general perform all the duties incident to the office of secretary of a corporation organized under the Business Corporation Act of the State of Utah.

Section 7. Treasurer. The Treasurer shall have the responsibility for condominium funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements and for the preparation of all required financial statements. He shall be responsible for the deposit of all monies and other valuable effects in the name of the Board of Directors or the managing agent in such depositories as may from time to time be designated by the Board of Directors, and he shall in general perform all the duties incident to the office of treasurer of a corporation organized under the Business Corporation Act of the State of Utah.

Section 8. Agreements, Contracts, Deeds, Checks, Etc. All agreements, contracts, deeds, leases, checks and other instruments of the condominium shall be executed by any two officers of the condominium or by such other person or persons as may be designated by the Board of Directors.

Section 9. Compensation of Officers. No officer shall receive any compensation from the condominium for acting as such.

#### ARTICLE V

#### Operation of the Property

Section 1. Determination of Common Expenses and Common Charges. The Board of Directors shall from time to time, and at least annually, prepare a budget for the condominium, determine the amount of the common charges required to meet the common expenses of the condominium, and allocate and assess such common charges against the unit owners according to their respective common interests. The common expenses shall include

among other things, the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board of Directors pursuant to the provisions of Section 2 of this Article V and the fees and disbursements of the Board of Directors. The common expenses may also include such amounts as the Board of Directors may deem proper for the operation and maintenance of the condominium property including without limitation an amount for working capital of the condominium in an amount not less than two months estimated common area charges for each unit for a general working reserve, for a reserve fund for replacements and to make up any deficit in the common expenses for any prior year. The Board of Directors shall advise each unit owner in writing of the amount of common expenses for any prior year. The Board of Directors shall advise each unit owner in writing of the amount of common charges payable by him, and shall furnish copies of each budget on which such common charges are based to all unit owners and their mortgagees. In the event that such assessment shall result in an excess for any one year, the Board of Directors may refund the excess to the unit owners or apply such excess to assessments for the succeeding year.

That portion of the common assessments payable by each unit 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 each year or portion of a year determined as aforesaid to the same ratio as the unit owner owns an undivided interest in the common areas and facilities and such assessments, together with any additional sums accruing under this Declaration, the By-Laws or the Act shall be payable monthly in advance or in such payments and installments as shall be required by the Board of Directors and at such times as shall be provided by the Board of Directors.

The Board of Directors shall have absolute discretionary authority to prescribe the manner of maintaining and operating the project and to determine the cash requirements of the Board of Directors to be paid as aforesaid by the owners under this Declaration. Any such determination by the Board of Directors within the bounds of the Act, By-Laws of this Declaration shall be final and conclusive on the unit owners, and any expenditure made by the Board of Directors within the Bounds of the Act, By-Laws or Declaration shall be deemed necessary and proper for such purposes as against the unit owners.

Section 2. Insurance. The Board of Directors shall be responsible for obtaining and maintaining at all times multi-peril insurance with comprehensive coverage as set forth within the By-Laws, including insurance against fire with endorsements for extended coverage for full insurable replacement value, boiler insurance and flood insurance provided the area in which the condominium project is located is classified as a flood peril area. Such insurance shall run for the benefit of the Board of Directors, the respective unit owners and the respective mortgagees as their interests may appear. Said insurance shall be governed by the following provisions:

(a) The Board of Directors shall be required to maintain a single master policy covering physical damage to the entire property under which insurance company will issue to each unit owner a certificate or sub-policy specifying the portion of the master policy allocated to each owner's unit and undivided interest in the general common elements. The master policy should also provide:

(1) That each unit owner shall have the right to request an increase in coverage allocated to his unit by reason of improvement made solely to his unit, but any additional premium resulting from such additional coverage shall be billed by the insurance company directly to and shall be paid by such owner; and,

(2) each unit owner may obtain at his own expense additional coverage insuring him for the cost of emergency shelter resulting from damage rendering his unit uninhabitable.

(b) In addition, the Board of Directors shall be required to secure a master policy covering physical damage that will provide the following:

(1) That the insurer waive its rights of subrogation to any claims against the Declarant, the Board of Directors, the unit owners and their respective agents, employees and guests, and in the case of the unit owners, members of their household.

(2) That the master policy on the property cannot be canceled, validated or suspended on account of conduct of any member of the Committee or managing agent without a prior demand in writing that the Board of Directors, or managing agent cure the defect.

(3) That no other insurance clause contained in the master policy shall expressly exclude an individual unit owner's policy from operation.

(4) That until the expiration of 30 days after the insurer gives notice in writing to the mortgagee of any unit, the mortgagee insurance coverage will not be affected, jeopardized by any act or conduct of the unit owner, the other unit owners, Board of Directors or any of their agents, employees, of household members nor cancelled for non-payment of premiums

(5) That the master policy may not be cancelled or substantially modified without at least 30 days prior written notice to the Board of Directors.

(6) That the net proceeds of such policy, if less than \$25,000.00, shall be payable to the Board of Directors; and, if more than \$25,000.00, shall be payable to an insurance trustee.

(7) The master policy shall contain a standard

mortgage clause in favor of the mortgage of the unit to the extent of the portion of the coverage of the master policy allocated to such unit and to which, provided that the loss, if any, thereunder shall be payable to such mortgagee and the unit owner as their interests may appear; subject, however, to a lost payment and adjustment provision in favor of the Board of Directors and the insurance trustee.

(c) All policies should be written with a company licensed to do business in the State of Utah and holding a rating of AAA or better by Best Insurance Reports.

(d) In no event shall the coverage obtained and maintained by the Board of Directors hereunder be brought into contradiction with insurance purchased by individual owners or their mortgagees.

(e) Each unit owner shall be required to notify the Board of Directors of all improvements made by the unit owners to their units, the value of which is in excess of \$1,000.00

(f) Any unit owner who obtains any individual policy which covers any portion of the property other than the personal property belonging to such unit owner shall be required to file a copy of such individual policy or policies with the Board of Directors within 30 days after purchase of the insurance. Such unit owner shall also promptly notify in writing the Board of Directors in the event such policy is cancelled.

(g) The Board of Directors shall review all types of coverage and limits of coverage at least annually, but in no event shall have less than \$1 million with respect to any one accident or occurrence and \$50,000.00 with respect to any claim for property damage. It shall also be the responsibility of each unit owner to obtain his own expense liability insurance with respect to his ownership or use of his unit and the Board of Directors shall not be responsible for obtaining such insurance.

(h) A duplicate original of the master policy physical damage insurance or renewals thereof or subpolicies



or certification issued thereunder together with proof of payment of premium shall be delivered to all mortgagees of units at least 30 days prior to the expiration of the then current policies. .

(i) The lender that is the holder of 51% of mortgages or deeds of trust encumbering units shall be designated as insurance trustee. If for any reason such lender shall refuse or shall cease to act as such, or at such time shall no longer hold such mortgages, the Board of Directors shall have the right to designate any bank, trust company, management agent, savings and loan association, building loan association, insurance company or any institutional lender or the condominium association as the insurance trustee and all parties beneficially interested in such insurance coverage shall be bound thereby. The insurance trustee at the time of deposits of such policy endorsement shall acknowledge the policy, any proceeds thereof shall be held in accordance with the terms of these By-Laws. The insurance trustee shall not be liable for payment of premiums, the renewal of the policy, sufficiency of coverage, the form or content of the policy, the correctness of any amount received by it upon account of proceeds of any insurance policy nor for the failure to collect any insurance proceeds. The sole duty of the insurance trustees shall be to receive such proceeds as are paid to it and to hold the same in trust for the benefit of the unit owners of the condominiums and their respective mortgagees.

Section 3. Repair or Reconstruction After Damage. In the event of damage to or destruction of any building as a result of fire or other casualty (unless 75% or more of the building is destroyed or substantially damaged and 75% or more of the unit owners do not duly and promptly resolve to proceed with repair or restoration), the Board of Directors shall arrange for the prompt repair and reconstruction of the buildings (including any damaged condominium units, and any kitchen or bathroom fixture initially installed therein by the Declarant, but not including any wall, ceiling or floor

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decorations, or coverings or other furniture, furnishings, fixtures or equipment installed by unit owners in the condominium units), and the Board of Directors shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. Any cost of such repair and restoration in excess of the the insurance payments shall constitute a common expense and the Board of Directors may assess all the unit owners for such deficit as part of the common charges.

If 75% or more of the building is destroyed or substantially damaged and 75% or more of the unit owners do not duly and promptly resolve to proceed with repair or reconstruction, the condominium property shall be subject to an action for partition at the suit of any unit owner lienor as if owned in common, in which event the net proceeds of sale, together with the net proceeds of insurance policies (or if there shall have exceeded the cost of such repair or restoration) then the excess of such insurance proceeds shall be divided by the Board of Directors among all the unit owners in proportion to their respective common interests, after first paying out of the share of each unit owner the amount of any unpaid mortgage, deed of trust, or other lien on his condominium unit, in the order of priority of such mortgage, deed of trust, or other lien.

Section 4. Payment of Common Charges. All unit owners shall be obligated to pay the common charges assessed by the Board of Directors pursuant to the provisions of Section 1 of Article V at such time or times as the Board of Directors shall determine.

No unit owner shall be liable for the payment of any part of the common charges assessed against his condominium unit subsequent to a sale, transfer or other conveyance by him thereof (made in accordance with the provisions of Section 1 of Article VII of these By-Laws). A purchaser of a condominium unit shall be jointly and severally liable for the payment of common charges assessed against such condominium unit subsequent to the acquisition by him of such condominium. A mortgagee or other purchaser of a condominium unit at

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a foreclosure sale of such condominium unit shall not be subject to a lien for the payment of common charges assessed prior to the foreclosure sale.

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

Section 6. Default in Payment of Common Charges.

(a) If any unit owner shall fail or refuse to make any payment of the expenses when due, the amount thereof shall constitute a lien on the interest of the owner of the property and upon the recording of notice thereof by the Board of Directors shall be a lien upon the unit owner's interest in the property prior to all other liens and encumbrances, recorded and unrecorded, except only:

- (1) tax and special assessment liens; and,
- (2) prior recorded encumbrances which are superior as a matter of law.

(b) In the event of default by any unit owner in paying to the Board of Directors the assessed common charges, such unit owner shall be obligated to pay a ten dollar (\$10) late charge on all fees not paid within five (5) days and in the event that such default is not cured within ten (10) days a late charge of twenty dollars (\$20) shall be charged from the date due thereof, together with all expenses, including attorney's fees, incurred by the Board of Directors in any proceedings brought to collect such unpaid common charges. The Board of Directors shall have the right and duty to attempt to recover such expenses of the proceedings, together with interest therein, and the expenses of the proceedings, including attorney's fees, in an action at law brought against such unit owner, or by foreclosure of the lien on such condominium unit.

(c) Upon payment of a delinquent assessment the Board of Directors shall cause a satisfaction of lien to be filed

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in cases where a notice of lien has been filed.

(d) If a unit owner shall at any time let or subject the unit and shall be in default for a period of one month in the payment of any assessments, the Board of Directors may bring suit directly against such unit owner for the amount in default and such unit owner shall remain obligated for any such assessment regardless of any contract or instrument between the tenant and unit owner. No such contract attempting to relieve the unit owner of any liability shall be of any force or validity as against the Board of Directors.

Section 7. Foreclosure of Liens for Unpaid Common Charges.

In any action brought by the Board of Directors to foreclose a lien on a condominium unit because of unpaid common charges, the unit owner shall be required to pay a reasonable rental for the use of his condominium unit and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect such rental. A suit to recover a money judgement for unpaid common charges shall be maintainable without foreclosing or waiving the lien securing the same.

Section 8. Statement of Common Charges. The Board of Directors shall promptly provide any unit owner who makes a request in writing with a written statement of his common charges.

Section 9. Abatement and Enjoying of Violations. The violation of any rule or regulation adopted by the Board of Directors, or the breach of any By-Law contained herein, or the breach of any provision of the Declaration, shall give the Board of Directors the right, in addition to any other rights available at law or set forth in these By-Laws,

(a) to enter the condominium 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 of condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board of Directors shall not thereby be deemed guilty in any manner of trespass; or,

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(b) to enjoin, abate or remedy such thing or condition by appropriate legal proceedings.

Section 10. Maintenance and Repair.

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

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

Section 11. Terraces, Balconies and Patios. A terrace, balcony or patio to which a condominium unit has sole access, shall be for the exclusive use of the owner of such condominium unit. Such unit owner shall keep such balcony, terrace or patio free and clean of snow, ice and any accumulation of water, and shall make all repairs thereto resulting from his negligence, misuse, or neglect. The use and maintenance of any planter box shall be the unit owner's responsibility. All other repairs in, to or with respect to such terraces, balcony or patio shall be made by the Board of Directors as a common expense.

Section 12. Use of Condominium Units. In order to provide for congenial occupancy of the condominium property and for the protection of the values of the condominium units, the use of the condominium property shall be subject to the following limitations:

(a) The condominium units shall be used for residences only, except as the Board of Directors may choose to purchase and use a unit as a management office, for the condominium project only.

(b) The common elements shall be used only for the

furnishings of the services and facilities for which they are reasonably suited and which are incidental to the use and occupancy of the condominium units.

(c) No nuisances shall be allowed which is a source of annoyance to its residents or which interferes with the peaceful possession or proper use of the condominium property by its residents.

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

(e) No portion of a condominium unit (other than the entire condominium unit) may be rented without approval of the Board of Directors and no transient tenants may be accommodated therein.

Section 13. Additions, Alterations or Improvements by Unit Owners. No unit owner shall make any structural addition, alteration or improvement in or to his condominium unit without the prior written consent thereto of the Board of Directors. The Board of Directors shall have the obligation to answer any written request by a unit owner for approval of a proposed structural; addition, alteration or improvement in such owner's condominium unit within thirty (30) days and failure to answer within the stipulated time shall constitute a consent by the Board of Directors to the proposed addition alteration or improvement. Any application to any governmental authority for a permit to make an addition, alteration or improvement in or to any condominium unit shall be executed by the Board of Directors. The Board of Directors shall not be liable to any contractor, subcontractor or materialman or to any person sustaining personal injury or property damage for any claim arising in connection with such addition, alteration or improvement. The provisions of this Section 13 shall not apply to condominium units owned by the

Declarant until such time as such condominium units have been initially sold by the Declarant and paid for.

Section 14. Water Charges and Sewer Rents. Water shall be supplied to all of the condominium units and the common elements through one or more building meters and the Board of Directors shall pay, as a common expense, all charges for water consumed on the premises, together with all related sewer rents arising therefrom, promptly after the bills therefor are rendered. In the event of a proposed sale of a condominium by the unit owner thereof, the Board of Directors, on request of the selling unit owner, shall execute and deliver to the purchaser of such condominium unit or to the purchaser's title insurance company, a letter agreeing to pay all charges for water and sewer rents affecting the property as of the date of closing of title to such condominium promptly after such charges have been billed by the appropriate collector.

Section 15. Gas. Gas shall be supplied to the common areas as needed through a building meter and the bills for the same shall be paid by the Board of Directors as a common expense.

Section 16. Electricity. Electricity shall be supplied by the public utility company serving the area directly to each condominium through a separate meter and each unit owner shall be required to pay the bills for electricity consumed or used in his condominium unit. The electricity serving the common elements shall be separately metered and the Board of Directors shall pay all bills for electricity consumed in such portions of the common elements as a common expense.

Section 17. Taxes. Each unit and its percentage of undivided interest in common areas and facilities shall be deemed to be a parcel and shall be subject to separate assessment and taxation by each assessing unit and special district for all types of taxes authorized by law, including but not limited to advalorem liens and special assessments.

Section 18. Storage. The Board of Directors may designate certain areas of the common area for storage and allow exclusive use of these designated areas. All aspects of controlling and using the storage areas so designated shall be the responsibility of the Board of Directors or their designee.

Section 19. Laundry. The Board of Directors may provide a laundry area for the use of all unit owners. In such event the Board of Directors shall create rules and regulations governing all aspects of the use and maintenance of the laundry area.

Section 20. Garbage. The common areas are equipped with garbage chutes observable from each floor of the condominium. The Board of Directors shall have the right to control all aspects of the use and maintenance of the garbage chutes and shall adopt rules and regulations governing their use.

Section 21. Boats and Campers. The common areas have very little space available for guest parking and additional unit owner parking. The Board of Directors shall have the right to preclude boats and campers and other recreational vehicles if they desire. They shall have the right to designate guest parking and in every other way they shall have the right to govern and control vehicular traffic and parking in all common areas.



ARTICLE VI

Mortgages

Section 1. Mortgage of Units. No unit owner shall mortgage his condominium unit except by a mortgage made to a bank, trust company, insurance company, federal savings and loan association, pension fund or other institution lender. Any such mortgage shall be substantially in the form on file with the Board of Directors, except for such changes and/or additions as may be legally necessary to make the mortgage loan, or to the extent permitted in writing by the Board of Directors.

Section 2. Notice to Board of Directors. A unit owner who mortgages his condominium unit shall notify the Board of Directors of the name and address of any mortgagee holding a mortgage (or trust deed) affecting that unit. The Board of Directors shall maintain a current roster of unit owners and of holders of mortgages (or trust deeds) affecting units in the project.

Section 3. Mortgagee Protection. Notwithstanding anything to the contrary contained in the Declaration:

(a) A reserve fund for repairs, maintenance and replacement of common areas equal to a minimum amount of two months estimated common area charges for each unit will be established as soon as practicable after all units have been sold by declarant. Such reserve funds shall be funded by regularly monthly payments.

(b) Any mortgage holder which comes into possession of the unit pursuant to the remedies provided in the mortgage or foreclosure of the mortgage or deed (or assignment in lieu of foreclosure) shall be exempt from any "right of first refusal" or other provisions which may exist relating to sale or lease of the units in the project.

(c) Any management agreement for the project shall be terminable by the Board of Directors for cause upon thirty

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(30) days written notice thereof and the term of any such agreement shall not exceed one year, renewable by agreement of the parties for successive one-year periods.

(d) In the event of damage to or destruction of any unit, which loss exceeds \$1,000.00, or any part of the common areas, which loss exceeds \$10,000.00, the institutional holder of any first mortgage on a unit shall be entitled to timely written notice to any such damage or destruction. No unit owner or other party shall be entitled to priority over such institutional holder with respect to the distribution to such unit of any insurance proceeds.

(e) If any unit or portion thereof or the common areas 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, which taking of common areas exceeds \$10,000.00, or which taking of units exceeds \$1,000.00, the institutional holder of any first mortgage of a unit shall be entitled to timely written notice of any such proceeding or proposed acquisition and no unit owner or other party shall have priority over such institutional holder with respect to the distribution to such unit of the proceeds of any award or settlement.

(f) With the exception of a lender in possession of a unit following a default in a first mortgage, a foreclosure proceeding or other deed or other arrangement in lieu of foreclosure, no unit owner shall lease less than the entire unit. Any lease agreement shall provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration and By-Laws and that any failure by the lessee to comply with the terms of such documents shall constitute a default under the lease. All leases shall be in writing.

(g) Each holder of a first mortgage lien on a unit who comes into possession of a unit by virtue of foreclosure of the mortgage, or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take

the unit free of any unpaid claims or assessments and charges against the unit which accrue prior to the time such holder acquires title to the unit, except for claims for a pro-rata share of such assessments or charges resulting from a pro-rata reallocation of such assessments or charges to all units in the project, including the mortgaged unit.

(h) The holder of a mortgage on any unit is entitled to written notification from the Board of Directors of any default by the mortgagor of such unit in the performance of such mortgagor's obligation under the Declaration or By-Laws which is not cured within sixty days after the same becomes delinquent. The Board of Directors, whenever requested in writing by a mortgagee of the condominium unit, shall promptly report any then unpaid common charges or other default by the owner of the mortgaged condominium unit.

(i) Any lien which the Board of Directors may have on any unit in the project for the payment of common expense assessments attributable to such unit will be subordinate to the lien or equivalent security interest of any first mortgage on the unit recorded prior to the date any such common expense assessments become due.

(j) Unless at least 75% of the first mortgagees (based on one vote for each mortgage owned) of units have given their prior written approval neither the Board of Directors nor the Unit Owners Association shall:

(1) By act or omission, seek to abandon or terminate the project, except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain.

(2) Change the pro-rata interest or obligation of any unit for (i) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or

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condemnation awards and for (ii) determining the pro-rata share of ownership of each unit in the appurtenant common areas.

(3) Partition or subdivide any unit.

(4) Make any material amendment to the Declaration or the By-Laws including, but not limited to, any amendments which would change the percentage of interest of the unit owners in the common areas, or such other changes that would adversely affect the interest of a mortgagee.

(5) By act or omission, seek to amend, partition, subdivide, encumber, sell, or transfer, the common areas. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the common areas of the project shall not be deemed a transfer within the meaning of this subparagraph).

(6) Use hazard insurance proceeds for losses to any condominium property (whether to units or to the common areas) for other than the repair, replacement or reconstruction of such improvements, except as provided by statute in cases of substantial loss to the units and/or the common areas of the project.

(7) Unit owners and mortgagees of a condominium unit shall be permitted to examine the books of account of the condominium at reasonable times on business days, but not more often than once monthly.

#### ARTICLE VII

##### Sales and Leases of Units

Section 1. Sales and Leases. No unit owner may sell or lease his condominium unit or any interest therein except complying with the provisions of this section. A unit owner's sale of his condominium shall include the sale of:

(a) The undivided interest in the common elements appurtenant thereto; and,

(b) The interest of such unit owner in any other

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assets of the condominium, hereinafter collectively called the appurtenant interests.

No unit owner shall be permitted to lease or rent his unit for transient or hotel purposes. No unit owner may lease less than the entire unit. Any lease agreement shall provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration and By-Laws and that any failure by the lessee to comply with the terms of such documents shall constitute a default under the lease. All leases shall be in writing.

Section 2. No Severance of Ownership. No unit owner shall execute any deed, mortgage or other instrument conveying or mortgaging title to his condominium unit without including the appurtenant interests, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage or other instrument purporting to affect one or more of such interests, without including all such interests shall be deemed and taken to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or described therein. No part of the appurtenant interests of any condominium unit may be sold, transferred or otherwise disposed of, except as part of a sale, transfer or other disposition of the condominium unit to which such interests are appurtenant or as part of a sale, transfer or other disposition of such part of the appurtenant interests of all condominium units.

Section 3. Gifts and Devises, Etc. Any unit owner shall be free to convey or transfer his condominium unit by gift or to devise his condominium unit by will or to pass the same by intestacy without restriction.

Section 4. Payment of Assessments. No unit owner shall be permitted to convey, mortgage, pledge, hypothecate, sell or lease his condominium unit unless and until he shall have paid in full to the Board of Directors all unpaid common

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charges theretofore assessed by the Board of Directors against his condominium unit and until he shall have satisfied all unpaid liens against such condominium unit, except permitted mortgages.

ARTICLE VIII

Condemnation

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

ARTICLE IX

Records

Section 1. Records and Audits. The Board of Directors or the managing agent shall keep detailed records of the actions of the Board of Directors and the managing agent, minutes of the meetings of the unit owners and financial books and records of account of the condominium, including a chronological listing of receipts and expenditures, as well as a separate account for each condominium unit, which among other things shall contain the amount of each assessment of the common charges against such condominium unit, the date due, the amounts paid thereon and the balances remaining unpaid. A written report summarizing all receipts and

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expenditures of the condominium shall be rendered by the Board of Directors to all unit owners at least quarter-annually. In addition, an annual report of the receipts and expenditures of the condominium, certified by an independent certified public accountant shall be rendered by the Board of Directors to all unit owners and to all mortgagees of condominium units who have requested the same, promptly after the end of the fiscal year.

ARTICLE X

Miscellaneous

Section 1. Notices. All notices to the Board of Directors shall be sent by registered or certified mail, in care of the managing agent, or if there is no managing agent to the office of the Board of Directors or to such other address as the Board of Directors may hereinafter designate from time to time. All notices to any unit owner shall be sent by registered or certified mail to the building or to such other address as may have been designated by him from time to time in writing to the Board of Directors. All notices to mortgagees of condominium units shall be sent by registered or certified mail to their respective addresses as designated by them from time to time in writing, to the Board of Directors. All notices of change of address shall be deemed to have been given when received.

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

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

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

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

#### ARTICLE XI

##### Amendments to By-Laws

Section 1. Amendments to By-Laws. Except as provided otherwise herein these By-Laws may be modified or amended by the vote of 51% of the unit owners at a meeting duly held for such purposes. Section 1 of Article III, insofar as it provides that the Declarant, so long as it is the owner of one or more condominium units, shall be entitled to elect at least one member of the Board of Directors, and Section 8 of Article III, insofar as it provides that the Declarant, so long as it is the owner of one or more condominium units, may vote the votes appurtenant thereto, and this Section 1 of Article XI, however, may not be amended without the consent in writing of the Declarant so long as the Declarant shall be the owner of one or more condominium units.

#### ARTICLE XII

##### Conflicts

Section 1. Conflicts. These By-Laws are set forth to comply with the requirements of the Condominium Ownership Act of the State of Utah. In case any of these By-Laws conflict with the provisions of such statute, or of the Declaration, as the case may be, the act shall control.

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APPENDIX "D"

Polaris Gardens Condominium Declaration

Unit Number Designation	Percentage of Undivided Interest in Common Areas and Facilities	Assigned Parking Stall Number
101	.0553138	PS 101
102	.0553138	PS 102
103	.0546218	PS 103
104	.0546218	PS 104
105	.0553138	PS 105
106	.0553138	PS 106
201	.0553138	PS 201
202	.0553138	PS 202
203	.0546218	PS 203
204	.0546218	PS 204
205	.0553138	PS 205
206	.0553138	PS 206
301	.0574397	PS 301
302	.0574397	PS 302
303	.0546218	PS 303
304	.0546218	PS 304
305	.0574397	PS 305
306	.0574397	PS 306

EFFECTIVE DATE. This Declaration shall take effect upon recording.

DECLARANT:  
K.G. & F. Enterprises,  
a Utah Corporation

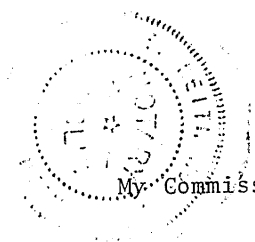
Deni Welch  
Deni Welch, Secretary

Gail Howick  
Gail Howick, President

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

On the 29th day of July, 1981, personally appeared before me Gail Howick and Deni Welch who did acknowledge to me that they executed the foregoing instrument.

[Signature]  
NOTARY PUBLIC  
Residing at Salt Lake County



My Commission Expires:  
2/8/82

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