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Date JUN 15 1973 at 1:36 P.M. MARGUERITE S. ROUSSE Recorder Davis County  
By L. Dell Manning Deputy Book 518 Page 456

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DECLARATION OF CONDOMINIUM

OF

NAYON HEIGHTS CONDOMINIUM

THIS DECLARATION OF CONDOMINIUM OF NAYON HEIGHTS CONDOMINIUM, hereinafter called the "Declaration", is made by Edwin M. Higley and Afton C. Higley, his wife, and Kermit Brimhall and Nayon Brimhall, his wife, hereinafter referred to as the "Declarant", pursuant to the provisions of the Utah Condominium Ownership Act.

RECITALS

WHEREAS, the Declarant is the owner of the following described real property in Davis County, Utah, and more particularly described as follows:

Beginning at a point South 89°30'40" West 621.88 feet and North 0°27'15" West 27.43 feet from the Southeast corner of the Southwest Quarter of Section 15, Township 4 North, Range 1 West, Salt Lake Base and Meridian, U. S. Survey, and running thence North 0°27'15" West 1452.47 feet; thence West 390.48 feet; thence South 0°24' East 1451.85 feet; thence South 89° 55' East 391.85 feet to the point of beginning. Containing 13.04 acres.

EXCEPTING THEREFROM, Nayon Street and Jeff Street therein, which is a public street.

hereinafter referred to as the "Real Property", and

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

WHEREAS, the Declarant has constructed or will construct residential buildings and other improvements upon the real property in accordance with the plans and drawings set forth in the record of survey map filed for record concurrently herewith, consisting of two (2) sheets, prepared and certified by Lloyd J. Neuffer, Utah Registered Land Surveyor, and

WHEREAS, the Declarant desires by filing this Declaration and the said record of survey map to submit the Real Property and the buildings and other improvements constructed or to be constructed thereon to the provisions of the Utah Condominium Ownership Act as a condominium project known as the NAYON HEIGHTS CONDOMINIUM, and

WHEREAS, the Declarant desires and intends to sell the fee title to the individual units and to each space in the "Storage Ports Area" contained in such condominium project, together with an undivided ownership interest in the common areas and facilities appurtenant thereto, to various purchasers, subject to the covenants, limitations and restrictions herein contained.

DECLARATION

NOW, THEREFORE, the Declarant hereby declares and certifies as follows:

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

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

(b) The Term the "Condominium Project", or sometimes the "Project", shall mean and refer to the entire parcel of Real Property referred to in this Declaration;

(c) The term "Map" shall mean and refer to the Record of Survey Map of NAYON HEIGHTS CONDOMINIUM filed for record simultaneously herewith by the Declarant;

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

(1) The above-described land;

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

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

(4) All foundations, columns, girders, beams, supports, main walls, retaining walls, roofs, halls, corridors, stairs, stairways, entrances and exits of the buildings, exterior walkways, service streets, yards, gardens, fences, swimming pool, all open parking spaces, installations of central services such as power, light, gas, all apparatuses and installations existing for common use, such community facilities as may be provided for, and all other parts of the Real Property necessary or convenient to its existence, maintenance and safety of the Common Areas or normally in common use;

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

(e) The term "Unit Owner" or "Owners" shall mean and refer to any person or entity, including the Declarant, at any time owning a condominium unit including a proportionate share of the Common Areas as defined herein. The term "Unit Owner" or "Owner" shall not refer to any mortgagee as herein defined, unless such mortgagee has acquired title pursuant to foreclosure, or any proceeding in lieu of foreclosure;

(f) The term "Property" shall mean and refer to the land above-described, the buildings, all other improvements and structures thereon, all easements, rights and appurtenances belonging thereto, and all articles or personal property intended for use in connection therewith;

(g) The term "Unit" shall mean and refer to one of the residential Units, which is designated as a Unit on the Map and in Exhibit "A" attached hereto (and incorporated herein by this reference). A Unit shall include any walls, partitions, and floors which are wholly contained within its vertical and horizontal perimeters and the surfaces of any floors, ceilings, or coverings which bound it. A Unit shall not include pipes, wires, conduits, or other utility lines running through it which are utilized for or which serve more than one Unit;

(h) The term "Common Expenses" shall mean and refer to all items, things and sums described in the Act which are lawfully assessed against the Unit Owners in accordance with the provisions of the Act, this Declaration, the By-Laws, such rules and regulations and other determinations and agreements pertaining to the Condominium Project as the Management Committee may from time to time adopt;

(i) The term "Management Committee" shall mean and refer to those persons duly elected thereto by the Unit Owners as provided by the Declaration in accordance with the By-Laws hereto attached as Exhibit "B", subject, however, to the provisions of paragraph 6 (a) hereof;

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

(k) The term "Mortgage" shall mean and refer to any mortgage, deed of trust or other security instrument by which a Unit or any part thereof is encumbered;

(l) The term "Mortgagee" shall mean and refer to any person named as the mortgagee or beneficiary under any Mortgage or Deed of Trust under which the interest of any Unit Owner is encumbered;

(m) The words "Space No. \_\_\_ of Storage Ports Area" shall refer to those areas designated on the map and may be sold to the owner of a particular Unit and resold to the owner of any other Unit for the exclusive use of the owner thereof.

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

2. Submission to Condominium Ownership. The Declarant hereby submits the above-described land, the buildings and other improvements constructed thereon or hereafter to be constructed thereon, together with all appurtenances thereto, to the provisions of the Act as a Condominium Project to be known as the NAYON HEIGHTS CONDOMINIUM. Declarant hereby declares that the Project and every part thereof is held and shall be held, conveyed, devised, leased, granted, encumbered, used, occupied and otherwise affected in any manner, subject to the provisions of this Declaration and the Act. Each and all of the provisions hereof are hereby declared to be in furtherance of the general plan and scheme of condominium ownership, and are further declared to be for the benefit of the Project and every part thereof, and for the benefit of each Unit Owner. All provisions hereof shall be deemed to run with the land as covenants running with the land, or as equitable servitude, as the case may be, and shall bind all persons hereafter acquiring or owning any interest in the Project, however such interest may be obtained.

### 3. THE BUILDINGS AND FACILITIES.

(a) The Project (in addition to the recreational facilities and other facilities and improvements provided therefor) consists of eleven (11) residential buildings containing a total of one hundred thirty seven (137) Units as shown in the Map.

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

<u>BUILDING DESIGNATION</u>	<u>LEVEL</u>	<u>NUMBER OF UNITS</u>
A	First and Second	14
B	First and Second	14
C	First and Second	12
D	First and Second	12
E	First and Second	12
F	First and Second	14
G	First and Second	14
H	First and Second	11
I	First and Second	11
J	First and Second	11
K	First and Second	12
		<u>137</u>

(b) Each of the Units includes the adjacent carport designated with the Unit number. In addition to said carports, there will be open parking spaces in the Project as Common Areas.

4. Nature and Incidents of Condominium Ownership.

(a) The Project is hereby divided into Condominium Units, each consisting of a fee simple interest in a Unit and an 1/137 undivided fee simple interest in the Common Areas. Such undivided interest in the Common Areas are hereby declared to be appurtenant to the respective Units. The percentage of ownership in the Common Areas shall be for all purposes including, but not limited to, voting and assessment for common expenses.

(b) Title to a Unit may be held or owned by any entity and in any manner in which title to any other real property may be held or owned in the State of Utah, including, but without limitation, joint tenancy or tenancy in common.

(c) No part of a Unit or of the legal rights comprising ownership of a Unit may be separated from any other part thereof during the period of condominium ownership prescribed herein, so that each Unit, the undivided interest in the Common Areas appurtenant to such Unit, shall always be conveyed, devised, encumbered, and otherwise affected only together and may never be separated from one another. Every gift, devise, bequest, transfer, encumbrance, conveyance or other disposition of a Unit or any part thereof shall constitute a respectively, of the entire Unit, together with all appurtenant right created by law or by this Declaration.

(d) The Common Areas shall be owned in common by all the Owners of Units, and no Unit Owner may bring any action for partition thereof.

(e) Subject to the limitations contained in this Declaration, any Unit Owner shall have the non-exclusive right to use and enjoy the Common Areas.

(f) Each Owner shall have the exclusive right at his sole cost and expense to maintain, repair, paint, re-paint, tile, wax, paper or otherwise re-finish and decorate the interior surfaces of the walls, ceilings, floors, and doors forming the boundaries of his Unit and all walls, ceilings, floors, and doors within such boundaries.

(g) If any part of the Common Areas encroaches or shall hereafter encroach upon a Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas, or upon an adjoining Unit or Units, and easement for such encroachment and for the maintenance of the same shall and does exist. Such encroachments shall not be considered to be encumbrances either on the Common Areas or the Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of the building on the Property, by error in the Map, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

(h) Some of the Common Areas, are or may be located within the Units or may be conveniently accessible only through the Units. The Owners of the other Units shall have the irrevocable right, to be exercised by the Management Committee as their agent, to have access to each Unit and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Areas located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Areas or to another Unit or Units. The Management Committee shall also have such right independent of any agency relationship. Damage to the interior of any part of a Unit or Units resulting from the maintenance, repair, emergency repair, or replacement of any of the Common Areas or as a result

of emergency repairs within another Unit at the instance of the Management Committee or of Unit Owners shall be an expense of all the Unit Owners; provided, however, that if such damage is the result of negligence of the Owner of a Unit, then such Owner shall be financially responsible for all of such damage. Such damage shall be repaired and the property shall be restored substantially to the same condition as existed prior to damage. Amounts owing by Owners pursuant hereto shall be collected by the Management Committee by assessment pursuant to paragraph 7 below.

(i) Each Owner shall have the right to ingress and egress over, upon and across the Common Areas necessary for access to his Unit, and each Owner shall have the right to the horizontal and lateral support of a Unit, and such rights shall be appurtenant to and pass with the title to each Unit.

(j) The Management Committee shall have a non-exclusive easement to make such use of the Common Areas as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration, including the right to construct and maintain in the Common Areas maintenance and storage facilities for use by the Management Committee.

(k) All conveyances of Units hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve such reciprocal easements as shall give effect to subparagraphs (g), (h), (i) and (j) above even though no specific reference to such easements or to those subparagraphs appears in any such conveyance.

5. Description of a Unit. Every contract for the sale of a Unit and every other instrument affecting title to a Unit may describe that Unit by the number shown on the Map with the appropriate reference to the Map and to this Declaration, as each shall appear on the records of the County Recorder of Davis County, Utah, in substantially the following fashion:

Unit \_\_\_\_\_ in Building \_\_\_\_\_ as shown in the Record of Survey Map for NAYON HEIGHTS CONDOMINIUM appearing in the records of the County Recorder of Davis County, Utah, in Book \_\_\_\_\_, Page \_\_\_\_\_ of Plats, and as defined and described in the Declaration of Condominium for NAYON HEIGHTS CONDOMINIUM, appearing in such records in Book \_\_\_\_\_, Page \_\_\_\_\_, of records.

Such description will be construed to describe the Unit, together with the appurtenant undivided interest in the Common Areas, and to incorporate all the rights incident to ownership of a Unit and all the limitations on such ownership as described in this Declaration.

6. Management Committee, Rights and Obligations.

(a) The business, property and affairs of the Project shall be managed by the Management Committee composed of five members. At the first regular Owners' meeting two Committee members shall be elected for three-year terms, two members for two-year terms, and one member for a one-year term. At each annual Owners meeting thereafter any vacant seat on the Committee shall be filled with a member elected for a three-year term. Members shall serve on the Committee until their successors are elected and qualify. Only Unit Owners and officers, Directors, agents, and employees of owners other than individuals shall be eligible for Committee membership. At the annual meeting each Unit Owner may vote his percentage of undivided ownership interest in favor of as many candidates for Committee membership as there are seats on the Committee to be filled; provided, however, that until the annual Owners meeting held in October of 1976 Declarant along shall be entitled to select three Committee members. Until the first annual meeting of the Owners, the members of the Committee, although numbering less than five, shall be the following persons and each shall hold the office indicated opposite his name:

EDWIN M. HIGLEY  
 KERMIT BRIMHALL  
 GREG HIGLEY

CHAIRMAN  
 VICE CHAIRMAN  
 SECRETARY-TREASURER

In the event a Committee seat which was filled by Declarant becomes vacant, Declarant shall have the right to select a replacement member to sit on the Committee for the balance of the term associated with the vacated seat. In all other cases of vacancy the remaining Committee members shall elect a replacement to sit on the Committee until the expiration of the term for which the member being replaced was elected.

(b) The Management Committee, subject to the rights of the Owners set forth in Paragraph 4 hereof, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon (including furnishings and equipment related thereto), and shall keep the same in good, clean, attractive and sanitary condition, order and repair. The Management Committee shall be responsible for the maintenance and repair of exterior surfaces of the Buildings, including, without limitation, the painting of the same as often as necessary, the replacement of trim, the maintenance and repair of roofs, the maintenance and repair of other Common Areas, including utility lines, and all other improvements or material located within or used in connection with the Common Areas. The specification of duties of the Management Committee with respect to particular Common Areas shall not be construed to limit its duties with respect to other Common Areas, as set forth in the first sentence in this paragraph. The cost of such management, operation, maintenance and repair by the Management Committee shall be borne as provided in paragraph 7 of this Declaration.

(c) The Management Committee may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Management Committee shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Management Committee or by any person or entity with whom or which it contracts. The Management Committee may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration. The Management Committee may arrange with others to furnish lighting, heating, water, trash collection, snow removal, pool service, grounds maintenance, sewer service, and other common services to each Unit. The cost of such services shall be borne as provided in paragraph 7 of the Declaration.

(d) The Management Committee may acquire and hold for the use and benefit of all of the Owners tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners in the same proportion as their respective interests in the Common Areas. Such interest shall not be transferable except with the transfer of a Unit. A transfer of a Unit shall transfer to the transferee ownership of the transferor's beneficial interest in such property without any reference thereto, and such beneficial interest may in no event be reserved by the transferor of a Unit. Each owner may use such property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of other Owners. The transfer of title to a Unit under foreclosure shall entitle the purchaser to the interest in such personal property associated with the foreclosed Unit.

(e) The Management Committee may make reasonable rules and regulations governing the use of the Units and of the Common Areas, which rules and regulations shall be consistent with the rights and duties established in this Declaration. The Management Committee may suspend any Owner's voting rights in the meeting of Unit Owners during any period or periods during which such Owner fails to comply with such rules and regulations, or with any other obligations of such Owner under this Declaration. The Management Committee may also take judicial action against any Owner to enforce compliance with such rules, regulations or other obligations or to obtain damages for noncompliance, all to the extent permitted by law.

(f) The Management Committee may exercise any other right or

privilege given to it expressly by this Declaration or by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

7. Assessments.

(a) Declarant, for each Unit owned by it within the Project, and for and as the owner of the Project and every part thereof, hereby covenants, and each Owner of any Unit by the acceptance of a deed therefor, whether or not it be so expressed in the deed, shall be deemed to covenant and agree with each other and with the Management Committee to pay to the Management Committee annual assessments made by the Management Committee for the purposes provided in this Declaration, and special assessments for capital improvements and other matters as provided in this Declaration. Such assessments shall be fixed, established and collected from time to time in the manner provided hereunder.

(b) The total annual assessments against all Units shall be based upon advance estimates of cash requirements by the Management Committee to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Areas or furnishing utility services to the Units, which estimates may include, among other things, expenses of Management; grounds maintenance; taxes and special assessments levied by governmental authorities until the Units are separately assessed as provided herein; premiums for all insurance which the Management Committee is required or permitted to maintain pursuant hereto; common lighting and heating; water charges; trash collection; sewer service charges; repairs and maintenance; wages for Management Committee employees; legal and accounting fees; any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus and/or sinking fund; and any other expenses and liabilities which may be incurred by the Management Committee for the benefit of the Owners under or by reason of this Declaration.

(c) Expenses attributable to the Common Areas and to the Project as a whole shall be apportioned among all Units in proportion to their respective undivided interests in the Common Areas. For this purpose Declarant shall be considered to own only the undivided interest in Common Areas based upon Units not conveyed by Declarant.

(d) Annual assessments shall be made on a calendar year basis. The Management Committee shall give written notice to each Owner as to the amount of the annual assessment with respect to his Unit not less than thirty (30) days nor more than sixty (60) days prior to the beginning of the next calendar year, provided, however, that the first annual assessment shall be for the balance of the calendar year remaining after the date fixed by the Management Committee as the date of commencement of the Project. Each annual assessment shall be due and payable in monthly installments on the 1st day of each and every month and no separate notices of such monthly installments shall be required. Each monthly assessment shall bear interest at the rate of ten (10) per cent per annum from the date it becomes due and payable if not paid within thirty (30) days after such date.

(e) In addition to the annual assessments authorized hereunder, the Management Committee may levy in any assessment year a special assessment, payable over such a period as the Management Committee may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof, or for any other expense incurred or to be incurred as provided in this Declaration. This paragraph shall not be construed as an independent source of authority of the Management Committee to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other paragraphs hereof which shall make specific reference to this paragraph. Any amounts assessed pursuant hereto shall be assessed to Owners in proportion to their respective undivided interest in the Common Areas. Declarant's interest in Common Areas shall be

determined on the same basis set forth in subparagraph (c). Notice in writing of the amount of such special assessments and the time for payment thereof shall be given promptly to the Owners, and no payment shall be due less than thirty (30) after such notice shall have been given. A special assessment shall bear interest at the rate of ten per cent (10%) per annum from the date it becomes due and payable if not paid within thirty (30) days after such date.

(f) All sums assessed to any Unit pursuant to this section, together with interest thereon as provided herein, shall be secured by a lien on such Unit in favor of the Management Committee. Such lien shall be superior to all other liens and encumbrances on such Unit, except only for: (a) valid tax and special assessment liens on the Unit in favor of any governmental assessing authority; and (b) encumbrances on the interest of the Unit Owner recorded prior to the date notice of the lien provided for herein is recorded which by law would be a lien prior to subsequently recorded encumbrances. All other lienors acquiring liens on any Unit after this Declaration shall have been recorded in said records shall be deemed to consent that such liens shall be inferior to future liens for assessments, as provided herein, whether or not such consent be specifically set forth in the instruments creating such liens.

To evidence a lien for sums assessed pursuant to this section, the Management Committee may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Unit and a description of the Unit. Such a notice shall be signed by the Management Committee and may be recorded in the office of the County Recorder of Davis County, Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by judicial foreclosure by the Management Committee in the same manner in which mortgages on real property may be foreclosed in Utah. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding, the costs and expenses of filing the notice of lien and all reasonable attorneys' fees. All such costs, expenses and fees shall be secured by the lien being foreclosed. The lien shall also secure, and the Owner shall also be required to pay to the Management Committee any assessments against the Unit which shall become due during the period of foreclosure. The Management Committee shall have the right and power to bid an amount equal to its then existing lien at the foreclosure sale or other legal sale and to acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the same as the Owner thereof.

A release of notice of lien shall be executed by the Management Committee and recorded in the office of the County Recorder of Davis County, Utah, upon payment of all sums secured by a lien which has been made the subject of a recorded notice of lien.

Any encumbrancer holding a lien on a Unit may pay, but shall not be required to pay, any amounts secured by the lien created by this Section, and upon such payment such encumbrancer shall be subrogated to all rights of the Management Committee with respect to such lien, including priority.

The Management Committee shall report to any encumbrancer of a Unit any unpaid assessments remaining unpaid for longer than ninety days after the same shall have become due; provided, however, that such encumbrancer first shall have furnished to the Management Committee written notice of such encumbrance.

(g) The amount of any annual or special assessment against any Unit shall be the personal obligation of the Owner thereof to the Management Committee. Suit to recover a money judgment for such personal obligation shall be maintainable by the Management Committee without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of his Unit.

(h) Upon payment of a reasonable fee not to exceed ten dollars (\$10.00) and upon written request of any Owner or any Mortgagee, prospective



Mortgagee or prospective purchaser of a Unit, the Management Committee shall issue a written statement setting forth the amount of the unpaid assessments, if any, with respect to such Unit; the amount of the current yearly assessment and the portion thereof which has theretofore been paid; credit for advanced payments or prepaid items, including, but not limited to, an Owner's share of prepaid insurance premiums; and such statement shall be conclusive upon the Management Committee in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within ten (10) days, all unpaid assessments which become due prior to the making such request shall be subordinate to the lien of a Mortgagee which acquired its interest subsequent to requesting such statement. Where a prospective purchaser makes such request, both the lien for such unpaid assessments and the personal obligations of the purchaser shall be released automatically if the statement is not furnished within the ten (10) day period provided herein and thereafter an additional written request is made by such purchaser and is not complied with within ten (10) days, and the purchaser subsequently acquires the Unit.

(i) Subject to the provisions of subparagraph (h), a purchaser of a Unit shall be jointly and severally liable with the seller for all unpaid assessments against the Unit up to the time of the grant or conveyance, without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

#### 8. Use of Condominium Units.

(a) Each of the 137 Units in the Project is intended to be used for single family residential housing and is restricted to such use.

(b) There shall be no obstruction of the Common Areas by the Owners and/or their guests without the prior written consent of the Management Committee. The Management Committee may by rules and regulations prohibit or limit the use of the Common Areas as may be reasonably necessary for the protecting the interests of all the Owners or protecting the Units or the Common Areas. Nothing shall be kept or stored on any part of the Common Areas without the prior written consent of the Management Committee, except as specifically provided herein. Nothing shall be altered on, constructed in, or removed from, the Common Areas except upon the prior written consent of the Management Committee.

(c) Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would result in the cancellation of the insurance on the Project or any part thereof or increase of the rate of the insurance on the Project or any part thereof over what the Management Committee, but for such activity, would pay, without the prior written consent of the Management Committee. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Management Committee and the other Owners harmless against all loss resulting from any such damage or waste caused by him or his invitees; provided, however, that any invitee of the Declarant shall not under any circumstances be deemed to be an invitee of any other Owner. No noxious, destructive or offensive activity shall be carried on in any Unit or in the Common Areas or any part thereof, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner or to any person at any time lawfully residing in the Project.

(d) The Management Committee may by rules and regulations prohibit or limit the raising, breeding, or keeping of animals in any Unit or on the Common Areas or any part thereof.

(e) No Owner shall violate the rules and regulations for the use of the Units and of the Common Areas as adopted from time to time by the Management Committee.

(f) Each Owner shall keep the interior of his Unit, including, without limitation, interior walls, windows, glass, ceilings, floors and

permanent fixtures and appurtenances thereto, in a clean, sanitary and attractive condition, and good state of repair.

(g) No structural alterations to any Unit shall be made, and no plumbing, electrical or similar work within the Common Areas shall be done, by any Owner without the prior written consent of the Management Committee.

(h) Notwithstanding anything herein to the contrary, until the Declarant has completed and sold all of the Units, neither the Unit Owners who have purchased Units from the Declarant nor the Management Committee shall interfere with the completion of the contemplated improvements and sale of the Units. The Declarant may make such use of the unsold Units and the Common Areas as may facilitate such completion and sale, including but not limited to, the maintenance of a sales office, the showing of the Units, and the display of signs.

#### 9. Insurance.

(a) The Management Committee shall obtain and keep in full force and effect at all times the following insurance coverage provided by companies duly authorized to do business in Utah. The provisions of this section shall not be construed to limit the power or authority of the Management Committee to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Management Committee may deem appropriate from time to time.

(1) The Management Committee shall obtain insurance on the Project in such amounts as shall provide for full replacement thereof in the event of damage or destruction from the casualty against which such insurance is obtained, all in the manner in which a corporation owning similar multiple family residential buildings in the vicinity of the Project would, in the exercise of prudent business judgment, obtain such insurance. Such insurance shall include fire and extended coverage, vandalism and malicious mischief, war risk insurance if available and if deemed appropriate by the Management Committee, and such other risks and hazards against which the Management Committee shall deem it appropriate to provide insurance protection. The Management Committee may comply with the above requirements by the purchase of blanket coverage and may elect such "deductible" provisions as in the Management Committee's opinion are consistent with good business practice.

(2) The Management Committee shall purchase broad form comprehensive liability coverage in such amounts and in such forms as it deems advisable to provide adequate protection. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Management Committee, and activities in connection with the ownership, operation, maintenance and other use of the Project.

(3) The Management Committee shall purchase workman's compensation and employer's liability insurance and all other similar insurance in respect to employees of the Management Committee in the amounts and in the forms now or hereafter required by law.

(4) The Management Committee shall purchase, in such amounts and in such forms as it shall deem appropriate, coverage against dishonesty of employees, destruction or disappearance of money or securities, and forgery.

(5) The Management Committee may obtain insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the Project, including any personal property of the Management Committee located thereon.

(b) The Management Committee may in its discretion elect to obtain insurance on the personal property and furnishings initially placed in the Units of Owners by Declarant upon completion of construction of the Project in such amounts as shall provide for the full replacement thereof in the event of damage or destruction from casualty against which such insurance is obtained.

(c) Casualty insurance shall be carried in a form or forms naming the Management Committee the insured, as trustee for the Owners and for Declarant, whether or not it is an Owner, which policy or policies shall specify the interest of each Unit Owner (Owner's name, Unit number, the appurtenant undivided interest in the Common Areas), and which policy or policies shall provide a standard, non-contributory mortgagee clause in favor of each first Mortgagee which from time to time shall give notice to the Management Committee of such first Mortgagee. Each policy also shall provide that it cannot be cancelled by either the insured or the insurance company until after ten days' prior written notice is first given to each Owner, to Declarant and to each first Mortgagee. All policies of insurance shall, if possible, provide that the insurance thereunder shall be invalidated or suspended only in respect to the interest of any particular Owner guilty of breach of warranty, act, omission, negligence or noncompliance with any provision of such policy, including payment of the insurance premium applicable to that Owner's interest, or who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy. All policies of insurance shall, if possible, provide further that the insurance under any such policy as to the interest of all other insured Owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect.

Public liability and property damage insurance shall name the Management Committee the insured, as trustee for the Owners and for Declarant, whether or not it is an Owner, and shall protect each Owner and Declarant against liability for acts of the Management Committee in connection with the ownership, operation, maintenance or other use of the Project. Such policies of insurance shall provide that all insureds (including, but without limitation, the Declarant, Owners, Management Committee, and officers of the Management Committee) shall be considered as separate insureds and coverage shall be afforded each such insured in the same manner as though separate policies had been issued to each such insured and the insurance afforded any person or organization as insured under this policy shall not in any way be prejudiced by the inclusion therein of more than one person and/or organization as insured, but the inclusion of more than one insured under the policy shall not operate to increase the limits of the company's total liability under the policy.

(d) Insurance coverage on the furnishings initially placed in the Unit by Declarant, except to the extent that the Management Committee pursuant to subparagraph (b) hereof elects to arrange for casualty insurance, and, regardless of the Management Committee's election, insurance coverage against loss from theft on all personal property, and insurance coverage on items of personal property placed in the Unit by Owner, and casualty and public liability insurance coverage within each individual Unit and for activities of the Owner, not acting by the Management Committee, with respect to the Common Areas shall be the responsibility of the respective Owners.

(e) The Management Committee shall receive the proceeds of any casualty insurance payments received under policies obtained and maintained pursuant to this section. To the extent that reconstruction is required herein, the proceeds shall be used for such purpose.

(f) Notwithstanding the provisions of subparagraph (a) and (b) above, each Owner may obtain insurance at his own expense providing coverage upon his Unit, his personal property for his personal liability, and covering such other risks as he may deem appropriate, but each such policy shall provide that it does not diminish the insurance carrier's coverage for liability arising under insurance policies which the Management Committee obtains pursuant to this section. All such insurance of the Owner's Unit shall waive the insurance company's right of subrogation against the Management Committee, the other Owners, and the servants, agents, guests of any of them, if such insurance can be obtained in the normal practice without additional premium charge for the waiver of rights of subrogation.

#### 10. Casualty Damage or Destruction.

(a) Title to each Unit is hereby made subject to the terms and

conditions hereof which bind the Declarant and all subsequent Owners, whether or not it be so expressed in the deed by which any Owner acquires his Unit.

(b) All of the Owners irrevocably constitute and appoint the Management Committee their true and lawful agent in their name, place and stead for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute appointment of the attorney in fact herein provided.

(c) As attorney in fact, the Management Committee shall have full and complete authorization, right and power to make, execute and deliver any contract, deed, or other instrument with respect to the interest of a Unit Owner which may be necessary or appropriate to exercise the powers herein granted. Repair and reconstruction of the improvements as used in the succeeding subparagraphs mean restoring the Project to substantially the same condition in which it existed prior to damage, with each Unit and the Common Areas having substantially the same vertical and horizontal boundaries as before.

(d) In the event any Mortgagee should not agree not to rebuild, the Management Committee shall have the option to purchase such Mortgage by payment in full of the amount secured thereby if 80% of the Owners are in agreement not to rebuild. The Management Committee shall obtain the funds for such purpose by special assessments under paragraph 7 of this Declaration.

(e) As soon as practicable after receiving the estimates of damages the Management Committee shall diligently pursue to completion the repair or reconstruction of the part of the Project damaged or destroyed if the Project is damaged or destroyed to the extent of 75% or less than the value thereof. The Management Committee may take all necessary or appropriate action to effect repair or reconstruction, as attorney in fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith. Such repair or reconstruction shall be substantially in accordance with the original plans and specifications of the Project or may be in accordance with any other plans and specifications the Owners may approve, provided that in such latter event the number of cubic feet and the number of square feet of any Unit may not vary by more than 5% from the number of cubic feet and the number of square feet for such Unit as originally constructed pursuant to such original plans and specifications, and the location of the buildings shall be substantially the same as prior to damage or destruction. The same easements for encroachments as declared in Section 4 (i) (above) shall and do hereby apply under the provisions of this Section. In the event the damage involved constitutes substantial damage to or destruction of three-fourths or more of all buildings in the Project, and if the Unit Owners, by a vote of at least eighty per cent (80%) of the undivided interest in the Common Areas, do not voluntarily, within 100 days after such destruction or damage, make provision for reconstruction, the Management Committee shall record, with the Davis County Recorder, a notice setting forth such facts, and upon the recording of such notice:

(1) The property shall be deemed to be owned in common by the Unit Owners;

(2) The undivided interest in the property owned in common which shall appertain to each Unit Owner shall be the percentage of undivided interest previously owned by such Owner in the Common Areas;

(3) Any liens affecting any of the Units shall be deemed to be transferred in accordance with the existing priorities to the undivided interest of the Unit Owner in the property; and

(4) 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, 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 a percentage equal to the percentage of undivided interest owned by each owner in the property, after first paying out of the respective shares of the Unit Owners to the extent sufficient for the purposes, all liens on the undivided interest in the property owned by each Unit Owner.

(f) The proceeds of any insurance collected shall be available to the Management Committee for the purpose of repair or reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair or reconstruction, the Management Committee, pursuant to paragraph 7 hereof,

may levy in advance a special assessment sufficient to provide funds to pay such estimated or actual costs of repair or reconstruction. Such assessment shall be allocated and collected as provided in that paragraph. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair or reconstruction.

(g) The insurance proceeds held by the Management Committee and the amounts received from the assessments provided for in paragraph 10(f) above constitute a fund for the payment of cost of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for cost or repair or reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair or reconstruction, such balance shall be distributed to the Unit Owners in proportion to the contributions each Owner made pursuant to the assessments the Management Committee made under paragraph 10(f) of this Declaration.

(h) If 80% of the Unit Owners and all holders of first Mortgages on Units agree not to rebuild, as provided herein, the Project may be removed from the provisions of the Act as prescribed therein.

11... Duty of Owner to Pay Taxes on Unit Owned. It is understood that under the Act each Unit (and its percentage of interest in the Common Areas) in the Project is subject to separate assessment and taxation of each taxing authority and the special district(s) for all types of taxes and assessments authorized by law, and that as a result thereof no taxes will be assessed or levied against the Project as such. Accordingly, each Unit Owner will pay and discharge any and all taxes and assessments which may be assessed against him on his Unit.

12. Amendment of this Declaration. The Unit Owners at any time, and from time to time, have the right to amend this Declaration and/or the Map upon the approval of Unit Owners representing not less than two-thirds (2/3) of the undivided interests in the Common Areas, which approval shall be by duly recorded instrument.

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

EDWIN M. HIGLEY  
150 South State Street  
Clearfield, Utah 84015

14. Transfer of Lease of Units. The Owner, or Owners, of any Unit in the Project who desires to sell his Unit, or to enter into any agreement for the occupancy of his Unit by another person or persons, shall give the Management Committee ten (10) days advance written notice thereof, which notice shall state the name and address of the proposed purchaser or occupant as the case may be, and the terms and conditions upon which said proposed purchaser or occupant agrees to purchase or occupy such Unit. The Management Committee shall have the right, exercisable at any time within ten (10) days after its receipt of such notice, to purchase or enter into an agreement for the occupancy of such Unit upon the same terms and conditions as those specified in that notice; provided, however, that in the event the Management Committee enters into an agreement hereunder for the occupancy of any Unit, it shall have the right to sublet such Unit to any person or persons reasonably suitable to the Management Committee. In the event the Management Committee determines that it desires to purchase, or enter into an agreement respecting the occupancy of, a Unit as above provided, but concludes that the price or rental specified in the notice is unreasonable, the Management Committee shall give the Owner or Owners of such Unit written notice thereon within seven (7) days after its receipt of notice of the proposed sale or occupancy arrangement. The notice thus given by the Management Committee shall state that it has elected or thereby elects to purchase said Unit, or enter into an agreement for the occupancy of the same, and shall state further that the Management Committee believes the price or rental specified in the notice given to it is unreasonable. The Management Committee shall thereafter be obligated to purchase such Unit, or enter into an agreement for the occupancy of same, as

the case may be, at a price or rental to be determined by a group of three M.A.I. Appraisers to be selected as follows: The Management Committee shall select one appraiser, the Unit Owner or Owners concerned shall select one appraiser, and the two appraisers thus selected shall select the third appraiser. In the event all three appraisers cannot agree on a price or rental to be paid, as the case may be, the decision of any two of the three shall be binding.

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

15. Reserved Easements -- Use Restrictions of "Boat Camper Storage."

(a) The Declarant herein, is the owner of the following described real property in Davis County, Utah, to-wit:

Beginning at a point South 89°30'40" West 621.88 feet and North 0° 27'15" West 475.86 feet and West 195.30 feet and North 0°17' West 230.0 feet and West 55 feet from the Southeast corner of the Southwest Quarter of Section 15, Township 4 North, Range 1 West, Salt Lake Meridian, U. S. Survey; and running thence West 141.60 feet; thence North 0°24' West 49 feet; thence East 141.70 feet; thence South 0°17' East 49.00 feet to the point of beginning.

(which real property is located between Buildings H and I as shown in the Map and therein designated as "Storage Port") hereinafter referred to as the "Storage Property". The Storage Property is not included as a portion of the Project. Declarant, its successors and assigns, hereby irrevocably reserve a perpetual, non-exclusive right (easement) to ingress and egress over, upon and across the Common Areas necessary for access to the Storage Property.

(b) With further reference to the Storage Property, Declarant does hereby further declare that said Property shall henceforth be used only for the purposes of storing boats and campers, and other uses incidental thereto, by the Unit Owners of the Project, subject to the payment to Declarant by Unit Owners using the same of such reasonable rental as Declarant may arrange with the Management Committee, and subject, also, to compliance by such users of such reasonable rules and regulations as the Management Committee may prescribe. Such use restrictions of the Storage Property shall continue for so long as the Project shall exist as a condominium project under this Declaration or any amendment or amendments thereof, and the same shall constitute a covenant running with the land.

16. Mortgage Protection. Notwithstanding all other provisions hereof:

(a) The liens created hereunder upon any Unit shall be subject and subordinate to, and shall not affect the rights of the holder of the indebtedness secured by any recorded first mortgage (meaning a mortgage or a trust deed with first priority over other mortgages) upon such interest made in good faith and for value, provided that after the foreclosure of any such mortgage there may be a lien created pursuant to Paragraph 7 hereof on the interest of the purchaser at such foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such purchaser as an Owner after the date of such foreclosure sale, which said lien, if any claimed, shall have the same effect and be enforced in the same manner as provided herein.

(b) No amendment to this paragraph shall affect the rights of the holder of any such mortgage recorded prior to 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 (a) and (b) above may be extended to mortgages not otherwise entitled thereto.

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

18. Number and Gender. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and these of any gender shall include all genders.

19. Severability. If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of the Declaration, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

20. Topical Headings The headings appearing at the beginning of the paragraphs of this Declaration are only for convenience of reference and are not intended to describe, interpret, define or otherwise affect the content, meaning or intent of this Declaration or any paragraph or provision hereof.

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

Dated this 6<sup>th</sup> day of June, 1973.

Edwin M. Higley  
Edwin M. Higley  
Afton C. Higley  
Afton C. Higley  
Kermit Brimhall  
Kermit Brimhall  
Nayon Brimhall  
Nayon Brimhall

STATE OF UTAH )  
                  ) ss.  
COUNTY OF DAVIS )

On the 6<sup>th</sup> day of June A.D. 1973, personally appeared before me EDWIN M. HIGLEY and AFTON C. HIGLEY, his wife, and KERMIT BRIMHALL and NAYON BRIMHALL, his wife, the signers of the foregoing instrument, who duly acknowledge to me that they executed the same.

Edwin M. Higley  
Notary Public

My Commission Expires: MAY 26, 1974  
Residing at: DAVIS COUNTY, UTAH



EXHIBIT "B"

BY-LAWS  
OF

471

NAYON HEIGHTS CONDOMINIUM  
-----

I

IDENTITY

These are the By-Laws of the NAYON HEIGHTS CONDOMINIUM PROJECT.

II

APPLICATION

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

III

ADMINISTRATION

1. Place of Meetings. Meetings of the Unit Owners shall be held at such place within the State of Utah as the Management Committee may specify in the notice, except as herein otherwise specified.
2. Annual Meetings. The first regular meeting of the Unit Owners shall be held on the 7th day of September, 1974, at such place as the Management Committee shall specify. Thereafter, the annual meeting shall be held on such day of each succeeding year; provided, however, that whenever such date falls on a legal holiday, the meeting shall be held on the next succeeding business day, and provided further, that the Management Committee may by resolution fix the date of the annual meeting on such date and at such place as the Management Committee may deem appropriate.
3. Special Meetings. Special meetings of the Unit Owners may be called at any time by written notice served by the Management Committee, or by Unit Owners having 35 percent of the total votes, delivered not less than seven (7) days prior to the date fixed for such meeting. Such meeting shall be held on the Project or such other place as the Management Committee may specify and the notice thereof shall state the place, date, time and matters to be considered.
4. Notices. Any notice permitted or required to be delivered as provided herein may be delivered either personally or by mail. If delivery is by mail, it shall be deemed to have been delivered 24 hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to each Unit Owner at the address given by such person to the Management Committee or the Manager for the purpose of service of such notice or to the Unit of such person if no address has been given. Such address may be changed from time to time by notice in writing to the Management Committee or Manager.



5. Quorum. At any meeting of the Unit Owners, the owners of more than fifty (50) percent in the aggregate in interest of the undivided ownership of Common Areas shall constitute a quorum for any and all purposes, except where by express provisions a greater vote is required, in which event a quorum shall be the number required for such vote. In the absence of a quorum the Chairman of the meeting may adjourn the meeting from time to time, without notice other than by announcement at the meeting, until holders of the amount of interest requisite to constitute a quorum shall attend. At any such adjourned meeting at which a quorum shall be present any business may be transacted which might have been transacted at the meeting as originally notified.

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

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

## IV

MANAGEMENT COMMITTEE

1. Purpose and Powers. The business, property and affairs of the Condominium shall be managed and governed by the Management Committee pursuant to paragraph 6 of the Declaration. The Management Committee, as it deems advisable, may enter into such management agreement or agreements with a third person, firm, or corporation to act as the Manager of the Project.

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

3. Special Meetings. Special meeting of the Management Committee shall be held whenever called by the Chairman, the Vice Chairman, or by three or more members. By unanimous consent of the Management Committee, special meetings may be held without call or notice at any time or place.

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

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

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

7. Adjournments. The Management Committee may adjourn any meeting from day to day or for such other time as may be prudent or necessary, provided that no meeting may be adjourned for longer than thirty (30) days.

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

V

#### OFFICERS

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

2. Other Officers. The Management Committee may appoint such other officers, in addition to the officers hereinabove expressly named, as it shall deem necessary, who shall have authority to perform such duties as may be prescribed from time to time by the Management Committee.

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

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

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

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

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

8. Compensation. No compensation shall be paid to the officers for their services as officers. No remuneration shall be paid to an officer for services performed by him for the Management Committee in any other capacity.

7. Adjournments. The Management Committee may adjourn any meeting from day to day or for such other time as may be prudent or necessary, provided that no meeting may be adjourned for longer than thirty (30) days.

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8. Compensation. No compensation shall be paid to the officers for their services as officers. No remuneration shall be paid to an officer for services performed by him for the Management Committee in any other capacity,

unless a resolution authorizing such remuneration shall have been unanimously adopted by the Management Committee before the services are undertaken.

## VI

ACCOUNTING

1. Books and Accounts. The books and accounts of the Management Committee shall be kept under the direction of the Treasurer and in accordance with the reasonable standards of accounting procedures.
2. Report. At the close of each accounting year, the books and records of the Management Committee shall be reviewed by a person or firm approved by the Unit Owners. Report of such review shall be prepared and submitted to the Unit Owners at or before the annual meeting of the Unit Owners; provided, however, that a certified audit by a certified public accountant approved by the Unit Owners shall be made if at least 75 percent of the owners of undivided interest in the Common Areas determine to do so.
3. Inspection of Books. Financial reports, such as are required to be furnished, shall be available at the principal office of the Management Committee or the Manger for inspection at reasonable times by any Unit Owners.

## VII

BUILDING RULES

The Management Committee shall have the power to adopt and establish, by resolution, such building, management and operational rules and regulations as it may deem necessary for the maintenance, operation, management and control of the Nayon Heights Condominium Project, and it may from time to time by resolution, alter, amend, and repeal such rules and regulations. Unit Owners shall at all times obey such rules and regulations and use their best efforts to see that they are faithfully observed by their Lessees and the persons over whom they have or may exercise control or supervision, it being clearly understood that such rules and regulations shall be binding upon all Unit Owners of the Condominium Project. Provisions of the Act pertaining to rules and regulations are incorporated herein by reference and shall be deemed a part hereof.

## VIII

AMENDMENT OF BY-LAWS

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