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Upon recording, return to
Three Fountains Owners Association
Attention: Brian Noel, Manager
828 Three Fountains Circle
Murray, UT 84107

6903211
03/25/98 11:53 AM 588.00
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
THREE FOUNTAINS OWNERS ASSOC
828 THREE FOUNTAINS CIR
MURRAY UT 84107
REC BY: H ZELAYA DEPUTY - WI

6903211

**AMENDED DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR THE
THREE FOUNTAINS CONDOMINIUMS
PHASES ONE THROUGH SIX**

THIS AMENDED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS (hereafter referred to as the "Amended Declaration") is made as of this 24th day of March 1998, by Three Fountains Owners' Association, a Utah non-profit corporation, with reference to the following facts:

WHEREAS, Richard Prows Inc., ("Prows") was the developer of a condominium project consisting of six phases, numbered one to six (hereinafter collectively called the "Three Fountains Condominiums") located in the City of Murray, County of Salt Lake, State of Utah; and

WHEREAS, Prows, as Declarant, recorded Declarations of Covenants, Conditions, and Restrictions for the Three Fountains Condominiums, phases one through six in the official records of the County Recorder of Salt Lake County, Utah; and

WHEREAS, in March 1970, the Declaration of Three Fountains Condominiums was amended to provide for centralized management of the project through the entity of the Three Fountains Owners' Association, a nonprofit Utah corporation (hereafter called the "Association"); and

WHEREAS, the members of the Association are owners of record of the units and common areas that comprise the property, set forth and described as phases one through six of Three Fountains Condominiums, as recorded in the official records of the Salt Lake County Recorder's Office and as described above; and

WHEREAS, the Owners of Three Fountains Condominiums and the Association desire to amend the previously amended Declaration of Covenants, Conditions, and Restrictions to make them uniformly applicable to all of Three Fountains Condominiums in order to facilitate such centralized management of the project, without however, interfering with the vested ownership interests in each of the six phases, and to distribute such Second Amended Declaration to present and future owners of the Condominiums and members of the Association.

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NOW, THEREFORE, the Undersigned being seventy-five percent (75%) of all the owners of Three Fountains Condominiums hereby amend the previously amended Declaration to read as follows:

1. **Definitions:** Certain terms as used in this Second Amended Declaration shall be defined as follows, unless the context clearly indicates a different meaning therefore:

(a) **"Amendment"** shall mean this instrument by which the original Declaration as heretofore amended is hereby further amended.

(b) **"Association"** shall mean Three Fountains Owners' Association, the non-profit corporate entity created to manage the Project.

(c) **"Board of Trustees"** shall mean the governing body of the Association, elected pursuant to the Articles of Incorporation and By-Laws of the Association.

(d) **"By-Laws"** shall mean the By-Laws adopted by the Association as they presently exist or as may be amended.

(e) **"Capital"** shall refer to all things covered by the Capital Fund.

(f) **"Common Area"** shall mean all land and all portions of the property not located within any Unit, including the parcels conveyed by the Association to the owners by Instrument 2428024, recorded December 22, 1971 in Book 3027 pages 235-238, of the Salt Lake County Recorder, and also includes, but not by way of limitation, roofs, foundations, pipes, ducts, flues, conduits, roof gutters and down spouts, wires and other utility installations to the outlets, bearing walls, perimeter walls, columns and girders, to the interior surfaces thereof, regardless of location, greens, gardens, balconies, patios, private courts, carports, garbage and equipment storage shed, service streets, and parking areas, recreational facilities, all installations of power, lights, gas, hot and cold water and heating existing for common use and all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

(g) **"Condominium"** shall mean the entire estate in the real property owned by any Owner, consisting of an undivided interest in the Common Area, and ownership of a separate interest in a Unit.

(h) **"Condominium Act"** shall mean the Utah Condominium Ownership Act (Title 57, Chapter 8, Utah Code Annotated, 1953 as originally adopted and as amended.)

(i) **"Improvement"** shall mean (1) an addition to or an amelioration in the condition of an asset, fixture or property that increases or enhances beauty, utility or value to more than

mere repair or replacement; or (2) to adapt the asset, fixture or property for new or further purposes. Improvements are part of the Capital Fund.

(j) **"Maintenance"** shall mean to provide for the preservation of the appearance, service potential and originally-intended useful life of an asset, fixture or other existing property. Items of Maintenance are to be included in the Operating Expense Fund.

(k) **"Manager"** shall mean and refer to the person, persons or business entity selected and designated by the Board of Trustees to manage the affairs of the Project.

(l) **"Maps"** shall mean the Record of Survey Maps of Three Fountains Condominiums, Phases One through Six.

(m) **"Member"** shall mean the Owner of a Condominium entitled to vote for the Board of Trustees of the Association and on all matters arising at any regular or special meeting of the Association.

(n) **"Mortgage"** shall mean a deed of trust as well as a Mortgage.

(o) **"Mortgagee"** shall mean a beneficiary under or holder of the obligation secured by a deed of trust as well as a Mortgage.

(p) **"New Acquisitions"** shall mean any new amenity or common area that does not currently exist.

(q) **"Occupant"** shall mean a person or persons, other than an Owner, in possession of or using a Unit, including, without limitation, family members, tenants, guests, or invitees.

(r) **"Owner"** shall mean any person with an ownership interest in a Condominium in the Project.

(s) **"Project"** shall mean the entire parcels of real property referred to in the original Declaration to be divided into Condominiums, including all structures thereon.

(t) **"Record"** shall mean to file or Record with the Office of the County Recorder of Salt Lake County, State of Utah.

(u) **"Replacement"** shall mean an "in kind" exchange or corresponding in utility.

(v) **"Unit"** shall mean the elements of a Condominium which are not owned in common with the Owners of other Condominiums in the Project as shown on the Maps. The Boundary Lines of each Unit are the interior surfaces of its perimeter walls, bearing walls, lower level floors, upper level ceilings, windows and window frames, doors and door frames and trim, and

includes both the portions of the buildings so described, the air space so encompassed and the garage adjacent to the Unit as shown on some of the Maps and the exclusive use of the balconies, patios, and private courts adjacent to the Unit as shown on some of the Maps.

2. **Voting**. The eligibility for and manner of voting shall be as specified in the Articles of Incorporation and By-Laws of the Association.

3. **Meetings**. The time, place and notice requirements for meetings shall be as specified in the Articles of Incorporation and By-Laws of the Association.

4. **Notices**. Any notice permitted or required to be delivered herein or under the By-Laws of the Association may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered twenty-four (24) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to each such person at the address given by such person to the Board of Trustees or Manager for the purpose of service of such notice or to the Unit of such person if no address has been given to the Manager. Such address may be changed from time to time by notice in writing to the Board of Trustees or the Manager.

5. **Election and Proceedings of the Board of Trustees**. Election to the Board of Trustees, terms of office, the manner of fulfilling vacancies and the manner of organizing and conducting the business of the Board of Trustees shall be as specified in the Articles of Incorporation and By-Laws of the Association.

6. **Authority of the Board of Trustees**. The Board of Trustees, for the benefit of the Association, the Condominiums and the Owners, shall enforce the provisions hereof and of the Articles of Incorporation and By-Laws of the Association. The Board may adopt and administer Association Rules in furtherance of this Declaration and of the By-Laws for the regulation and operation of the Condominium. The Board shall also acquire and pay for out of the Operating Expense Fund, the following:

(a) Water, sewer, garbage collection, electrical, telephone and gas and other necessary utility service for the Common Area (and to the extent not separately metered or charged, for the Units);

(b) A policy or policies of fire insurance as the same are more fully set forth in paragraph 25 of this Amendment, with extended coverage endorsement, for the full insurable replacement value of the Units and Common Area, payable as provided in Paragraph 27, or such other fire and casualty insurance as the Board of Trustees shall determine gives substantially equal

or greater protection to the Owners, and their Mortgagees, as their respective interests may appear, which said policy or policies shall provide for a separate loss payable endorsement in favor of the Mortgagee or Mortgagees of each Condominium, if any;

(c) A policy or policies as the same are more fully set forth in paragraph 25 of this Amendment insuring the Board of Trustees, the Owners and the Manager against any liability to the public or to the Owners (of Units and of the Common Area, and their invites, or tenants,) incident to the ownership and/or use of the Project, and including the personal liability exposure of the Owners. Limits of liability under such insurance shall not be less than One Million Dollars (\$1,000,000.00) for any one person injured, for any one accident, and shall not be less than One Hundred Thousand Dollars (\$100,000.00) for property damage each occurrence (such limits and coverage to be reviewed at least annually by the Board of Trustees and increased in it's discretion.) Said policy or policies shall be issued on a comprehensive liability basis and shall provide cross liability endorsement wherein the rights of named insured under the policy or policies shall not be prejudiced as respects his, her or their action against another named insured.

(d) Workmen's compensation insurance to the extent necessary to comply with any applicable laws;

(e) The services of a person or firm to manage its affairs (herein called "the Manager") to the extent deemed advisable by the Board of Trustees as well as such other personnel as the Board of Trustees shall determine shall be necessary or proper for the operation of the Common Area, whether such personnel are employed directly by the Board of Trustees or are provided by the Manager;

(f) Legal and accounting services necessary or proper in the operation of the Common Area or the enforcement of this Amendment and the Articles of Incorporation and By-Laws of the Association;

(g) A fidelity bond naming the Manager, and such other persons as may be designated by the Board of Trustees as principals and the Owners as obligees, in an amount at least equal to forty-five (45%) percent of the total sum collected through the Common Expense Fund during the preceding year;

(h) Painting, maintenance, repair and all landscaping of the Common Area, and such furnishings and equipment for the Common Area as the Board of Trustees shall determine are necessary and proper, and the Board of Trustees shall have the exclusive right and duty to acquire the same for the Common Area; provided, however, that the interior surfaces of each Unit shall be painted, maintained and repaired by the Owners thereof, all such maintenance to be at the sole cost and expense of the particular Owner;

(i) Any other materials, supplies, labor, services, maintenance, repair, structural alterations required for purposes of maintenance, insurance, taxes or assessments which the Board

of Trustees is required to secure or pay for pursuant to the terms of this Amendment, the Articles of Incorporation and By-Laws of the Association or by law or which in its opinion shall be necessary or proper for the operation and maintenance of the Common Area or for the enforcement of this Amendment, or the Articles of Incorporation and By-Laws of the Association, provided however, that if any such materials, structural alterations, insurance, taxes or assessments, are provided for particular Units, the cost thereof shall be specially assessed to the Owners of such Units.

(j) Maintenance and repair of any Unit, fixture or asset of the Association, if such Maintenance or repair is reasonably necessary in the discretion of the Board of Trustees to protect the Common Area or preserve the appearance and value of the Project, and the Owner or Owners of said Unit have failed or refused to perform said Maintenance or repair within a reasonable time after written notice of the necessity of said Maintenance or repair delivered by the Board of Trustees to said Owner or Owners; provided that the Board of Trustees shall levy a special assessment against the Condominium of such Owner or Owners for the cost of said Maintenance or repair.

The Board of Trustees' power hereinabove enumerated shall be limited in that the Board of Trustees shall have no authority to subsidize one fund from another fund.

7. **Board of Trustees Powers, Exclusive.** The Board of Trustees shall have the exclusive right to contract for all goods, services, and insurance.

(a) **New Acquisitions.** The Board of Trustees shall not be empowered to acquire or construct additional structures or facilities in the Common Area without the prior approval of a majority of the Members.

8. **Alterations, Additions and Improvements of Common Area.** The Board of Trustees shall have the power to maintain, repair, replace and improve existing structures, elements and facilities in the Common Area, but shall not be empowered to acquire or construct additional structures or facilities without the prior approval of a majority of the Members.

9. **Common Expenses and Assessments.**

(a) At least 60 days prior to the beginning of each calendar year the Board of Trustees shall prepare estimated cash requirements for the succeeding calendar year for each of the following categories:

(1) Operating Expense Fund: An Operating Expense Fund detailing anticipated expenditures for the repair and Maintenance of the Common Area;

(2) Capital Fund: A Capital Fund detailing Capital Replacements, Alterations, Improvements, and Additions scheduled for completion during the upcoming calendar year; and

(3) Reserve Fund: Any funds, (less any expected income and any surplus from the prior year) necessary to maintain a Reserve Fund of at least Two Hundred Thousand Dollars (\$200,000.00) or such other amount as may be established by the Members or By-Laws. The Reserve Fund shall be expended only for payment of unforeseen expenses caused by extraordinary events of an unpredictable nature and shall not be appropriated by the Board of Trustees for expenses allocated to the other two funds.

These estimated cash requirements along with an itemization of scheduled Capital Replacement and Improvement Projects for the succeeding calendar year shall be delivered to the Owners no later than 60 days prior to the calendar year. Accompanying the notice of estimated cash requirements shall be a notice scheduling one or more hearings for the Owners on the proposed budgets and cash requirements. Following the hearing(s) the said estimated cash requirements, as may be revised, shall be assessed to the Owners pursuant to the percentages set forth in the schedule attached as Exhibit 1. If the estimated cash requirements prove inadequate for any reason, including nonpayment of any Owner's assessment, the Board of Trustees may at any time levy a further assessment, which shall be assessed to the Owners in like proportions, unless otherwise provided. Each Owner shall be obligated to pay assessments made pursuant to this paragraph to the Association in equal monthly installments on or before the first day of each month during such year, or in such other reasonable manner as the Board of Trustees shall designate.

(b) All funds collected hereunder shall be expended for the purposes designated herein.

(c) The omission by the Board of Trustees, before the expiration of any year, to fix the assessments hereunder for that or the next year, shall not be deemed a waiver or modification in any respect of the provisions of this Amendment, or a release of the Owner from the obligation to pay the assessments, or any installment thereof, for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed. Amendments to this paragraph shall be effective only upon unanimous written consent of the Owners and their Mortgagees. No Owner may exempt himself from liability for his contributions towards the common expenses by waiver of the use or enjoyment of any of the Common Area or by abandonment of his Condominium.

(d) The Manager or Board of Trustees shall keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the Common Area, specifying and itemizing the maintenance and repair expenses of the Common Area and any other expenses incurred. Records and vouchers authorizing the payments involved shall be available for examination by an Owner at convenient hours of week days.

10. Leases. Any agreement for the leasing, rental, or occupancy of a Unit (hereinafter referred to as a "lease") shall be in writing and a copy thereof shall be delivered to the Association. Every lease shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, the By-Laws and the Association Rules. Said lease shall further provide that any failure by the Occupant thereunder to comply with the terms of the foregoing document shall be a default under the lease. If any lease does not contain the foregoing provisions, such provisions shall nevertheless be deemed to be a part of the lease and binding on the Owner and the Occupant by virtue of their inclusion in this Declaration. No Owner shall be permitted to lease his Unit for transient or hotel purposes, which shall be defined as rental for any period of less than thirty days. Any Owner who shall lease his Unit shall be responsible for assuring compliance by the Occupant with this Declaration, the By-Laws, and the Association Rules. Failure by an Owner to take legal action, including the institution of a forcible entry and unlawful detainer against his Occupant who is in violation of this Declaration, the By-Laws, or the Association Rules within ten days after receipt of written demand to do so from the Board, shall entitle the Association, through the Board, to take any and all such action including the institution of proceedings in forcible entry and unlawful detainer on behalf of such Owner against his Occupant. Neither the Association nor any agent retained by the Association to manage the Condominium shall be liable to the Owner or Occupant for any eviction under this Section that is made in good faith. Any expenses incurred by the Association, including attorney's fees and costs of suit, shall be repaid to it by such Owner. Failure by such Owner to make such repayment within ten days after receipt of a written demand therefor shall entitle the Board to levy a special Assessment against such Owner and his Unit for all such expenses incurred by the Association. In the event such special Assessment is not paid within thirty days of its due date, the Board may resort to all remedies of the Association or applicable state law for the collection thereof.

11. Nuisance. No noxious or offensive activity shall be carried out upon the Condominiums or Common Areas, nor shall any activity which might be or become an annoyance or nuisance to Owners or Occupants be permitted to interfere with their rights of quiet enjoyment or increase the rate of any insurance or decrease the value of the Units. No Owner or Occupant shall engage in activity within the Condominiums or Common Areas in violation of any law, ordinance, statute, rule or regulation of any local, county, state or federal body.

(a) The result of every act or omission whereby any provision or restriction contained in this Declaration or any provision contained in the By-Laws or Association Rules is violated in whole or in part is hereby declared to be and shall constitute a nuisance, and every remedy allowed at law or in equity against a nuisance, either public or private, shall be applicable with respect to the abatement thereof and may be exercised by the Board of Trustees, the Association or any Owner. Such remedy shall be deemed cumulative to all other remedies set forth in this Declaration and shall not be deemed exclusive.

11.1. External Laundering. Unless otherwise permitted by the Board of Trustees, external laundering and drying of clothing and other items that can be seen from ground level outside the unit is prohibited.

11.2. Outside Speakers and Amplifiers. No radio, stereo, broadcast, loudspeaker units, or amplifiers of any kind shall be placed upon or outside, or be directed to the outside of, any Unit without the prior written approval of the Board of Trustees. Original intercom systems are excluded.

11.3. Repairs. No repairs, of an extensive nature, of any detached machinery, equipment or fixtures, including without limitation, motor vehicles, shall be made within the Condominiums or Common Areas.

11.4. Unightly Items. All rubbish, debris or unsightly materials or objects of any kind shall be regularly removed from Units and shall not be allowed to accumulate therein or thereon. Refuse containers and machinery and equipment not a part of the Units, shall be prohibited upon any Unit unless obscured from view of adjoining Units, Common Area and facilities. Trash and garbage not disposed of by equipment contained within the Units shall be placed in containers by Owners and Occupants for removal from the Condominium in accordance with Association Rules applicable thereto adopted by the Board of Trustees. The Board of Trustees may adopt rules applicable to the provisions of this Section and their enforcement, including the assessment of charges to Owners and Occupants who violate, or whose invitees violate, such rules. Any charges so assessed shall be special Assessments. The foregoing notwithstanding, nothing included herein shall be construed as preventing the Association and its agents and assigns from engaging in all forms of construction within the Condominiums.

12. Default in Payment of Assessments. Each monthly assessment and each special assessment shall be separate, distinct and personal debts and obligations of the Owner against whom the same are assessed at the time the assessment is made and shall be collectible as such. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same. The amount of any assessment whether regular or special, assessed to the Owner of any Condominium plus interest at seven (7%) percent and costs, including reasonable attorney's fees, shall become a lien upon such Condominium upon recordation of a notice of assessment as provided in the Condominium Act. The said lien for nonpayment of common expenses shall have priority over all other liens and encumbrances, recorded or unrecorded, except only:

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

(b) Encumbrances on the Owner's Unit recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

A certificate executed and acknowledged by a majority of the Board of Trustees stating the indebtedness secured by the lien upon any Unit created hereunder, shall be conclusive upon the Board of Trustees and the Owners as to the amount of such indebtedness on the date of the

certificate, in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any Owner or any encumbrancer or prospective encumbrancer of a Unit upon request at a reasonable fee, not to exceed Ten Dollars (\$10.00). Unless the request for a certificate of indebtedness shall be complied with within ten days, all unpaid common expenses which become due prior to the date of the making of such request shall be subordinate to the lien held by the person making the request. Any encumbrancer holding a lien on a Unit may pay any unpaid common expenses payable with respect to such Unit and upon such payment such encumbrancer shall have a lien on such Unit for the amounts paid of the same rank as the lien of his encumbrance.

Such lien for nonpayment of assessment may be enforced by sale by the Board of Trustees or by a bank or trust company or title insurance company authorized by the Board of Trustees such sale to be conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure in deeds of trust or Mortgages or in any manner permitted by law in any foreclosure sale, the Owner shall be required to pay the costs and expenses of such proceedings and reasonable attorney's fees.

In case of foreclosure, the Owner shall be required to pay a reasonable rental for the Unit and the Plaintiff in the foreclosure action shall be entitled to the appointment of a Mortgage security. The Board of Trustees or Manager shall have the power to bid on the Unit at foreclosure or other sale and to hold, lease and mortgage and convey the Unit.

Upon payment of a delinquent assessment concerning which a certificate of indebtedness has been so recorded, or other satisfaction thereof, the Board of Trustees shall cause to be recorded in the same manner as the certificate of indebtedness a further certificate stating the satisfaction and the release of the lien thereof.

13. Mortgage Protection. Notwithstanding all other provision hereof:

(a) The liens created hereunder upon any Unit shall be subject and subordinate to, and shall not affect the right of the holder of the indebtedness secured by any recorded first mortgage (meaning a mortgage 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 12 hereof on the interest of the purchase at such foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such purchase, 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 Board of Trustees, the benefits of (a) and (b) above may be extended to Mortgages not otherwise entitled thereto.

14. Notices of Lenders. A Lender shall not be entitled to receive any notice which this Declaration requires the Association to deliver to lenders for notice, approval or consent regarding a proposed action or otherwise, unless and until such Lender, or its Mortgage servicing contractor, has delivered to the Association a written notice stating that such Lender is the holder of a loan encumbering a Unit within the Condominium. Notwithstanding the foregoing, if any right of a Lender under this Declaration is conditioned on a specific written request to the Association, in addition to having delivered the notice provided in this Section a Lender must also make such request in writing delivered to the Association.

15. Delegation to Manager. The Board of Trustees may delegate any of its duties, power, or functions, including but not limited to, the authority to give the certificate provided for in paragraph 12 hereof, and the authority to give the subordination agreements provided for in paragraph 13 hereof, to any person or firm, to act as Manager of the Project, provided that any such delegation shall be revocable upon notice by the Board of Trustees. The members of the Board of Trustees shall not be liable for any omission or improper exercise by the Manager of any such duty, power or function so delegated by written instrument executed by a majority of the Board of Trustees. In the absence of any appointment, the President of the Board of Trustees shall act as Manager.

16. Ad-hoc Committees. The Board of Trustees by resolution, may designate one or more Ad-hoc committees, from the Members for the purposes and in the manner specified by the By-Laws of the Association.

17. Exclusive Ownership and Possession by Owner. Each Owner shall be entitled to exclusive Ownership and possession of his Unit. Each Owner shall be entitled to an undivided interest in the Common Area defined in the original Declaration in the percentage expressed in Exhibit A of the original Declaration and to an undivided 1/293 interest in the parcels deeded by the Association to the Owners. The percentage of the undivided interest of each Owner in the Common Area as expressed in Exhibit A of the original Declaration shall have a permanent character and shall not be altered without the consent of all Owners expressed in an amended Declaration duly recorded. The percentage of the undivided interest in the Common Area shall not be separated from the Unit to which it appertains and shall be deemed to be conveyed or encumbered or released from liens with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument. Each Owner may use the Common Area in accordance with the purpose for which are intended, without hindering or encroaching upon the lawful rights of the other Owners.

An Owner shall not be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, lower level floors, upper level ceilings, windows and doors bounding his Unit nor shall the Owner be deemed to own the utilities running through his Unit which are utilized for, or serve more than one Unit, except as a tenant in common with the other Owners. An Owner, however, shall be deemed to own and shall have the exclusive right to paint, repaint, tile, wax, paper or otherwise refinish and decorate the inner surfaces of the walls, lower level floors, upper level ceilings, windows and doors bounding his Unit.

18. Owner's Obligation to Repair. Except for those portions which the Board of Trustees is required to maintain and repair hereunder, each Owner shall at the Owner's expense keep the interior of his Unit and its equipment and appurtenances in good order, condition and repair and in a clean and sanitary condition, and shall do all redecorating, painting and varnishing which may at any time be necessary to maintain the good appearance and condition of his Unit. In addition to decorating and keeping the interior of the Unit in good repair, the Owner shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water heater, furnaces, lighting fixtures, refrigerators, air conditioning equipment, dishwashers, disposals or ranges that may be in, or connected with the Unit. It is expressly understood that there are, appurtenant to some Units, air conditioners which are located on the roofs or in the patios appurtenant to the Units. An easement is hereby reserved in favor of each such Unit for the purpose of maintenance, repair or replacement of the said air conditioners by the respective Owners as required hereinabove.

The Owner shall also, at the Owner's own expense, keep the balcony and the interior of the patio and garbage or equipment storage shed and carports which have been assigned to his Unit in a clean and sanitary condition. The Board of Trustees and Manager shall not be responsible to the Owners for loss or damage by theft or otherwise of articles which may be stored by the Owner in the balcony, patio, garbage, or equipment storage shed, carports or Unit.

The Owner shall promptly discharge any lien which may hereafter be filed against his Condominium and shall otherwise abide by the provisions of the Condominium Act.

19. Prohibition Against Structural Changes by Owner. The Owner shall not, without first obtaining written consent of the Board of Trustees, make or permit to be made any structural alteration, improvement or addition in or to his Unit or in or to the exterior of the building or other Common Area. The Owner shall do no act nor any work that will impair the structural soundness or integrity of the buildings or safety of the property or impair any easement or hereditament without the written consent of the Board of Trustees. The Owner shall not paint or decorate any portion of the exterior of the buildings or other Common Area or any portion of the patio fences, or garbage or equipment storage sheds or carports without first obtaining written consent of the Board of Trustees.

Any improvement, structural alteration or addition made by an Owner after written consent of the Board of Trustees shall thereafter become the responsibility of the Owner, his successors or assigns, who shall thereafter maintain, and replace such improvement, structural alteration or addition and assume any and all liability associated therewith. Any change from the original construction or plans of Three Fountains Condominiums shall constitute a structural alteration or addition for the purposes of this paragraph.

20. Limitation on Use of Units and Common Area. The Units and Common Area shall be occupied and used as follows:

(a) No Owner shall occupy or use his Unit, or permit the same or any part thereof to be occupied or used for any purpose other than as a private residence for the Owner and the Owner's lessees or guests; provided, however, that the Board of Trustees, upon application by an Owner or lessee, may authorize use of a unit for a home occupation permitted by applicable zoning laws, if there is no on-site advertising of any type and the home occupation does not increase traffic in the Common Areas or on public streets in Three Fountains Condominiums.

(b) There shall be no obstruction of the Common Area. Nothing shall be stored in the Common Area without the prior consent of the Board of Trustees.

(c) Nothing shall be done or kept in any Unit or in the Common Area which will increase the rate of insurance on the Common Area, without the prior written consent of the Board of Trustees. No Owner shall permit anything to be done or kept in his Unit or in the Common Area which will result in the cancellation of insurance on any Unit or any part of the Common Area, or which would be in violation of any law. No waste shall be committed in the Common Area.

(d) No sign of any kind shall be displayed to the public view on or from any Unit or the Common Area, without the prior consent of the Board of Trustees.

(e) No animals, livestock or poultry of any kind shall be raised, bred, or kept in any Unit or in the Common Area, except that dogs, cats or other household pets may be kept in Units, subject to rules and regulations adopted by the Board of Trustees.

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

(g) Nothing shall be altered or constructed in or removed from the Common Area, except upon the written consent of the Board of Trustees.

(h) There shall be no violation of rules for the use of the Common Area adopted by the Board of Trustees and furnished in writing to the Owners, and the Board of Trustees is authorized to adopt such rules.

(I) None of the Rights and Obligations of the Owners created herein, or by the Deed creating the Condominium shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. There shall be valid easements for the Maintenance of said encroachments so long as they shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful conduct of said Owner or Owners.

21. Entry for Repairs. The Board of Trustees or its agents may enter any Unit when necessary in connection with any maintenance, landscaping or construction for which the Board of Trustees is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Board of Trustees out of the Operating Expense fund.

22. Failure of Board of Trustees to Insist on Strict Performance no Waiver. The failure of the Board of Trustees or Manager to insist in any one of or more instances, upon the strict performance of any of the terms, covenants, conditions, or restrictions of this Amendment, or to exercise any right or option herein contained, or to serve any notice or to institute any action shall not be construed as a Waiver or a relinquishment for the future, of such term, covenant, condition, or restriction but such term, covenant, condition, or restriction shall remain in full force and effect. The receipt by the Board of Trustees or Manager of payment of any assessment from an Owner, with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by the Board of Trustees or Manger of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board of Trustees or Manager.

23. Limitation of Liability of Board of Trustees. The Board of Trustees shall not be liable for any failure of water supply or other service to be obtained and paid for by the Board of Trustees hereunder, or for injury or damage to person or property caused by the elements or by another Owner or person in the Project, or resulting from electricity, water, rain, dust, or sand which may leak or flow from outside or from any parts of the buildings, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other place unless caused by gross negligence of the Board of Trustees. No diminution or abatement of common expense assessments shall be claimed or allowed for inconveniences or discomfort arising from the making of repairs or improvements to the Common Area or from any action taken to comply with any law, ordinance, or orders of a governmental authority.

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

25. Insurance. The Board of Trustees shall obtain and maintain at all times insurance of the type and kind and in at least the amounts provided hereinabove, and including insurance for such other risks, of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to other condominium Projects similar in construction, design and use which insurance shall be governed by the following provisions:

(a) All policies shall be written with a company licensed to do business in the State of Utah, and holding a rating of "AAA" or better by Best's Insurance Reports or other equivalent accredited rating agency;

(b) Exclusive authority to adjust losses under policies hereafter in force in the Project shall be vested in the Board of Trustees or its authorized representative;

(c) In no event shall the insurance coverage obtained and maintained by the Board of Trustees hereunder, be brought into contribution with insurance purchased by individual Owners or their Mortgagees;

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

(e) Each Owner shall be required to notify the Board of Trustees of all Improvements made to his Unit, the value of which is in excess of ten percent (10%) of the unit's current market value.

(f) Any Owner who obtains individual insurance policies covering any portion of the Project other than personal property belonging to such Owner, shall be required to file a copy of such individual policy or policies with the Board of Trustees within thirty (30) days after the purchase of such insurance;

(g) The Board of Trustees shall be required to make every effort to secure insurance policies that will provide for the following:

(1) A waiver of subrogation by the insurer as to any claims against the Board of Trustees, the Manager, the Owners and their respective lessees, servants, agents, and guests;

(2) That the master policy on the Project cannot be canceled, invalidated or suspended on account of the conduct of any one or more individual Owners;

(3) That the master policy on the Project cannot be canceled, invalidated or suspended on account of the conduct of any officer or employee of the Board of Trustees or the Manager without a prior demand in writing that the Board of Trustees or Manager cure the defect;

(4) That any "no other insurance" clause in the master policy exclude individual Owners' policies from consideration.

(h) The annual insurance review which the Board of Trustees is required to conduct as provided in paragraph 6 above shall include an appraisal of the Improvements in the Project by a representative of the insurance carrier writing the master policy.

26. No Partition. There shall be no judicial partition of the Project or any part thereof, nor shall any person acquiring any interest in the Project or any part thereof seek any such judicial partition, until the happening of the conditions set forth in paragraph 27 hereof in the case of damage or destruction or unless the property has been removed from the provisions of the Condominium Act; provided, however, that if any Condominium shall be owned by two or more co-tenants as tenants-in-common or as joint tenants, nothing herein contained shall be deemed to prevent a judicial partition as between such co-tenants, but such partition shall not affect any other unit.

27. Damage and Destruction. In case of fire, casualty or any other disaster, the insurance proceeds, if sufficient to reconstruct the buildings, shall be applied to such reconstruction. Reconstruction of the buildings, as used in this paragraph, means restoring the buildings to substantially the same condition in which they existed prior to the fire, casualty or other disaster, with each Unit and the Common Area having the same vertical and horizontal boundaries as before. Such reconstruction shall be accomplished by the Manager at the direction Board of Trustees.

If the insurance proceeds are insufficient to reconstruct the building, damage to or destruction of the building shall be promptly repaired and restored by the Manager or Board of Trustees, using proceeds of insurance, if any, on the building for that purpose, and the Unit Owners shall be liable for assessment for any deficiency. However, if three-fourths or more of the buildings are destroyed or substantially damaged and if the Owners, by a vote of at least three-fourths of the voting power, do not voluntarily, within one hundred days after such destruction or damage, make

provision for reconstruction, the Manager or Board of Trustees shall Record, with the county recorder, a notice setting forth such facts, and upon the recording of such notice:

- (a) The property shall be deemed to be owned in common by the Owners;
- (b) The undivided interest in the property owned in common which shall appertain to each Owner shall be the percentage of undivided interest previously owned by such Owner in the Common Area;
- (c) Any liens affecting any of the Condominiums shall be deemed to be transferred in accordance with the existing priorities to the undivided interest of the Owner in the property; and;
- (d) The property shall be subject to an action for partition at the suit of any 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 Owners in a percentage equal to the percentage of undivided interest owned by each Owner in the Common Area, after first paying out of the respective shares of the Owners, to the extent sufficient for the purposes, all liens on the undivided interest in the property owned by each Owner.

Notwithstanding all other provisions hereof, the Owners may, by an affirmative vote of at least three-fourths of the voting power, at a meeting of Unit Owners duly called for such purpose, elect to sell or otherwise dispose of the property. Such action shall be binding upon all Unit Owners and it shall thereupon become the duty of every Unit Owner to execute and deliver such instruments and to perform all acts as in manner and form may be necessary to effect the sale.

28. Authority to Grant Easements. The Board of Trustees shall have the authority to grant such easements over and across the Common Area as shall be determined by said Board of Trustees to be in the interests of the Owners.

29. Enforcement. Each Owner shall comply strictly with the provisions of this Amendment and with the administrative rules and regulations drafted pursuant thereto and with the Articles of Incorporation and By-Laws of the Association as adopted and as lawfully amended from time to time and with decisions adopted pursuant to said Amendment and administrative rules and regulations and By-Laws and failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Board of Trustees or Manager on behalf of the Owner, or in a proper case, by an aggrieved Owner.

30. Personal Property. The Board of Trustees or Manager may acquire and hold, for the benefit of the Owners, tangible and intangible personal property and may dispose of the same by sale or

otherwise; and the beneficial interest in such personal property shall be owned by the Owners in the same proportion as their respective interests in the Common Area, and shall not be transferable except with a transfer of a Condominium. A transfer of a Condominium shall transfer to the transferee ownership of the Transferor's beneficial interest in such personal property.

31. **Audit.** Audits of the books and records of the Manager and Board of Trustees shall be as specified in the By-Laws.

32. **Interpretation.** The provisions of this Amendment shall be liberally construed to effectuate its purposes of creating a uniform plan for the development and operation of a Condominium Project. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

33. **Amendment.** Except as otherwise provided herein, the provisions of this Amendment may be amended by an instrument in writing signed and acknowledged by Record Owners holding a seventy-five percent (75%) of the total vote of the Members by person and not by proxy hereunder, which amendment shall be effective upon recordation in the office of the Recorder of Salt Lake County, State of Utah.

34. **Gender and Number.** Whenever the context of this Declaration requires, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and the neuter, and vice versa.

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

36. **Attorney's Fees.** In the event any action is instituted to enforce any of the provisions contained in this Declaration, the By-Laws or Association Rules, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment reasonable attorney's fees and costs of suit.

37. **Effective Date.** This Amendment shall take effect upon Recording.

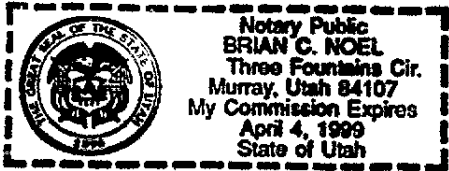
IN WITNESS WHEREOF, I declare that the attachment is a true and accurate recording of the Members who have voted affirmatively in favor of the foregoing Amendment, comprising seventy-five percent of the total vote of the Record Owners.

By: Charles W. Hillier Date March 24, 1998

Capacity: President

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

On this 24 day of March 1998, personally appeared before me Charles W. Hillier, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose.



Brian C. Noel
NOTARY PUBLIC
Murray, Utah

EXHIBIT "1"
THREE FOUNTAINS OWNERS ASSOCIATION
PHASES ONE THRU SIX
ASSESSMENT ALLOCATIONS

Unit Type	Number of units	Yearly Group %	Yearly Units %
Units 1-16	16	4.590%	0.287%
Small Townhouse	56	16.696%	0.298%
Cameo	42	13.745%	0.327%
Large Townhouse	113	38.220%	0.338%
Manor House	56	20.993%	0.375%
Villa Fontana	14	5.756%	0.411%
Totals	297	100.000%	

Covenants, Conditions and Restrictions

IN WITNESS WHEREOF, the Undersigned being record owners holding 75 % or more of the total vote of Three Fountains Owners Association, have duly executed this instrument as of the date and year aforesaid.

1. Doug Hoek

2. Suzy L. Michalopoulos

3. Linda M. Hamrell

4. _____

5. James Vandjick

6. Lee & Millie Wragley

7. _____

8. Madeline R. Wooten

9. Joe Wolf

10. _____

11. _____

12. _____

13. Royal R. Stevens

14. _____

15. Fay B. Miller

16. Marjorie A. Fae

17. Bruce J. Trapp

18. Constance D. Reed

19. Madeline Harrison

20. Larence E. Reid

21. Marcelle R. Agnew

22. Luana Briggs

23. Milae O. White

24. Evelyn H. Waskley

25. Joanne C. Kettner

26. _____

27. Herman W. Kettner

28. ~~Sharon Cummings~~

29. Lucie G. Symon

29. Marjorie A. Zoelitz

30. Robert Hendricks

30. John M. Zoelitz

31. _____

32. _____

33. Julia M. Amost

34. Val B. Byrd

35. O. J. Johnson

36. Blanche E. Byrd

37. Jean E. Lindquist

38. _____

39. _____

41. John S. Sumbly

43. _____

45. _____

47. Joseph Hunter

49. Robert Brown

51. John A. Jones

53. _____

55. Belva Reeves

57. ~~Wm. W. Baker~~

59. Charles W. Hillier

61. Edward J. Lambriek

63. Mercedes R. Keepe

65. Wendell D. Grant

67. Edward M. Beckman

69. Ronald Thomson

71. John A. Collett

73. Francis E. Leck

75. _____

77. Rex C. Reave

79. _____

81. _____

83. James H. Sorenson

40. Marie Hennepfer

42. Ben Rubenoff

44. Colleen Olsen

46. John Anderson

48. Susan Clawson

50. Maynard V. Vint

52. _____

54. Edwin W. Christensen

56. Ramon C. Nielsen

58. John T. Holmes

60. Max Compe

62. Hal D. Dancy

64. Shirley M. Bettehult

66. Don G. Bellingsley

68. Bonnie Bowers

70. Edna Chipman

72. John S. Ed

74. _____

76. Kenneth P. Biringhurst

78. W. Hansen

80. Mary C. Clark

82. Belle Katz

84. Gayle DeLu

85. Joseph Wright

86. Amy Bentley

87. ~~Joseph Wright~~

88. Tess Sorensen

89. Sisy D. Mikhalopoulos

90.

91. Barbara Sparrow

92. J. J. Johnson

93. Stuart L. Dow

94. Joseph H. Johnson

95. Mayoree K. Giles

96. Wangsten

97. Kenneth B. Dyer

98.

99. Alton L. Eakridge

100. Bernice B. Peckert

101. Edward N. Smith

102. Camille Olson

103. Michael L. Laska

104. Joseph J. Julian

105. Linda B. Mulvaney

106. William W. Adams

107. Mrs. Naomi Nelson

108. Lena Zukars

109. ~~Walter S. Plana~~

110. Mary B. Lund

111. Mrs. George Lundon

112.

113. ~~Stephen Link~~

114.

115. Diana Porter

116. Constance E. Spikley

117. ~~Samuel B. Troop~~

118. Robert Snyder

119. Van Robison

120. Margaret Richards

121.

122.

123.

124.

125. Pauline Long

126.

127.

128. Earl A. Evans

129. Kathleen Laub

130. Tom Pearson

- 131. _____
- 133. John Edgar
- 135. Hubert E. Stewart
- 137. Alex Clawson - Bird
- 139. Glynda A. Christensen
- 141. Edward H. Brinn
- 143. _____
- 145. Bea Andersen
- 147. Helen J. Fowler
- 149. Phyllis G. Cook
- 151. R.H. J. Stone
- 153. Oma H. Redden
- 155. Bernie Cook
- 157. _____
- 159. Lucia Peterson
- 161. Shirley J. Parker
- 163. Joseph R. Mower
- 165. John Owen
- 167. Alma W. Hansen
- 169. Jean Busso
- 171. _____
- 173. Alma L. Marshall
- 175. Gene A. Mitchell

- 132. _____
- 134. Dorothy Patten
- 136. M. O. Luetbert
- 138. Robert L. Liel
- 140. Gertrude F. Miller
- 142. Vesta C. Rockwood
- 144. Anthony B. Shaw
- 146. Ethel Poesch
- 148. _____
- 150. Arthur Edasin
- 152. Clarence W. Latta
- 154. _____
- 156. Thomas R. Marsh
- 158. Allert Bullock
- 160. _____
- 162. Mona Lee Hadley
- 164. _____
- 166. _____
- 168. Barbara E. Jacobsen
- 170. Douglas O. Parker
- 172. _____
- 174. Agnes M. Leonard
- 176. Ray M. Bradford

177. John B. Fisher

179. Arthur L. Yeager

181. Barbara J. McKean

183. Mary Jane Kloeffner

185. Rosemary S. Pepper

187. Lynn P. Dun

189. _____

191. Joe McEwan

193. _____

195. Gene S. Mowley

197. _____

199. Lwength Thorn

201. Anna Faulger

203. _____

205. Opal Thomson

207. Margaret W. Johnson

209. Jean H. Lattin

211. Mary C. Lambert

213. Elaine B. Marsden

215. Luana Mednick

217. Elizabeth Morrison

219. _____

221. Mary S. Wilde

178. _____

180. Jeanne M. Longworth

182. Tom Curtis

184. Chubs Lindabe

186. Arthur Evidasin

188. Matthew J. Ellyott

190. Jayce J. Bunkinshaw

192. Judi B. Oakes

194. _____

196. _____

198. Mal C. Sanford

200. Les W. Price

202. Laveta Harvey

204. _____

206. + Mario Cummings

208. Alvin R. Clark

210. Wyl R. Hall

212. J. H. Orm

214. Lynn E. Dunn

216. Jay Paul

218. Dorothy Fierler

220. Blanche E. Peterson

222. _____

223. Alfred [unclear]
225. Morris Parrish
227. _____
229. Ingrid E. Paehler
231. Delmar E. Juby
233. _____
235. _____
237. John Paulsen
239. _____
241. Kella R. Williams
243. Audrey S. Dunn
245. Grace B. Peterson
247. Yon A. Christensen
249. Robert V. Edman
251. Jean W. Martin
253. Leith & Jill Hatch
255. Richard H. Davis
257. Wain Dean
259. Gloria M. Goddard
261. Karen Merrell
263. Mabel Bryant
265. Dana Bogard
267. Bessie N. Munn

224. Richard F. McKean
226. _____
228. Blaise R. Boggess
230. Barbara Westerman
232. Nora Boord
234. _____
236. Terrence M. Watts
238. Ellis M. Dawson
240. E. M. Sarge
242. _____
244. Robert J. [unclear]
246. Miss John F. Weaver
248. [unclear]
250. Jane W. Kloss
252. _____
254. Jane & Mable Williams
256. Mary Ann Brundage
John R. Brundage
258. _____
260. _____
262. William A. Arnold
264. Kathleen K. Leonard
266. R. E. Bowman
268. _____

269. J. Dele Anderson

271. Evelyn D Cook

273. _____

275. Neut O Cottle

277. Bird Linsley

279. Patricia A. Kline

281. Samuel Magy Woods

283. Urean S Hanks

285. Herbert L Olsen

287. _____

289. Deborah Luskbaugh

291. Marjorie A. Bead

293. Josephine Hagan

295. _____

297. _____

~~270. James M. McNight~~

272. Valley von Gunten

274. John E. Egan

276. _____

278. Kathleen R. Boyce

280. Veitch Cummings

282. ~~282. William J. [unclear]~~ MAB
B-52-98
C-334

284. Lisa D Powell

286. _____

288. _____

290. Eiko A Sjaelede

292. Josephine Hagan

294. _____

296. Karen Stone