

AMENDMENT TO DECLARATION  
PARK DRIVE CONDOMINIUM ASSOCIATION

MARCH 5, 1996

The Declaration of Park Drive Condominium Association dated 18 May 1981, ARTICLE XI, Section 11, paragraph 1.3 Workman's Compensation and Employer's Liability, is Amended to add:

No workman's compensation insurance will be necessary if all repairs and maintenance are completed by licensed and insured Vendors and/or Corporations and there are no regular or part time employees directly under the control of the Association. A copy of proof of Insurance must be provided prior to starting work by all Vendors and contractors. If a contractor sub-contracts work, the contractor is responsible to make sure the sub-contractor has insurance or is covered under the contractors insurance.

MARCH 15, 1994

ARTICLE IX USE OF CONDOMINIUM UNITS AND COMMON ELEMENTS,  
SECTION 9.4 Prohibition of Damage and Certain Other Activities.  
Paragraph 9.4.5: The Association may by rules or regulations prohibit or limit the raising, breeding or keeping of animals, livestock, or poultry in any Unit or on the Common Elements or any part thereof

AMEND TO READ:

Paragraph 9.4.5: The Association prohibits the raising, breeding or keeping of animals, livestock, or poultry, (which includes cats, dogs or birds) in any Unit or on the Common Elements or any part thereof.

## INFORMATION BROCHURE - PARK DRIVE CONDOMINIUMS

Your interest in purchasing a condominium unit in Park Drive Condominiums is justified by the opinions of many financial observers. In the November 1979 issue of Time Magazine, it is reported that "...While the market for houses is slumping, sales of condominiums and cooperative apartments are holding up better. \*\*\* Over the long term, it seems that demand - and prices - for condos and co-ops will be stronger than for housing in general." The purpose of this Information Brochure is to introduce you to the basic concepts of condominium ownership and highlight many of the rights and responsibilities of the owners, Condominium Owners Association, and the Declarant in the Park Drive Condominiums.

### BASIC CONCEPTS

The basic difference between apartment living and condominium living is that in condominiums, the owners collectively own and control the entire project, whereas, in apartments, one merely occupies an apartment as a tenant and has no legal ownership in the project. Ownership in condominiums consists of two interrelated parts: A common ownership among all owners of the land, buildings and amenities; and, a separate ownership of a three dimensional air space in which the owner lives. That part of the project owned in common is generally referred to as the "Common Elements". The three dimensional air space in which the owners live is owned in "fee simple" and is generally referred to as a "Unit". The owner's interest in the Common Elements and his fee simple ownership of a Unit are inseparable, and together are referred to as a "Condominium Unit". Thus, when anyone buys or sells a Condominium Unit, one automatically acquires title to both the three dimensional air space Unit and a percentage ownership of the Common Elements.

In most instances, the Common Elements are for the use and enjoyment of all the owners of the condominium project, subject to reasonable rules which preserve all owners' equal enjoyment. However, some portions of the Common Elements are restricted to the use by certain owners, these restricted portions being known as "Limited Common Elements". Those portions of the Common Elements available to all owners are known as the "General Common Elements" and include all of the project except Limited Common Elements and Units. Examples of Limited Common Elements in the Park Drive Condominiums are the parking and patio areas, and the future parking area shown to the East of Units 102-A, B, C and D on the Condominium Map.

The legal documentation (condominium documents) which creates the condominium ownership and provides the machinery for governing the condominium project consists of the Condominium Declaration (Declaration), Condominium Map (Map), and the Articles of Incorporation (Articles) and By-Laws (By-Laws) of the Condominium Owners Association. The owner of the project, O. F. Christensen, who

initiated and created the condominium documentation of Park Drive Condominiums is referred to in the condominium documents as the "Declarant".

### THE ASSOCIATION

The Park Drive Condominium Owners Association is a non-profit corporation formed by the Declarant to function as a "mini-government" of the condominium project. Each owner by accepting a deed to a Condominium Unit automatically becomes a member of the Association and is subject to the rules and regulations expressed in the Association's Articles and By-Laws and in the Declaration and Map.

An owner's membership in the Association is expressed as a percentage. Each owner's percentage membership in the Association is determined by the percent his Unit's interior footage bears to the interior footage of all Units in the project. Each Unit's percentage is described on the Exhibit "A" attached to and recorded with the Declaration. The percentage expressed on the Exhibit "A" of the Declaration not only determines the amount of each owner's vote in the Association, but also determines the percent of assessment which each owner must pay.

The Association is managed by a Board of Managers elected from the members. The Association holds an annual meeting at which the members of the Board are elected; however, until nine (9) Condominium Units are sold, or \_\_\_\_\_, 198\_\_, the Declarant has reserved the right to elect the Board of Managers.

The Board of Managers chooses the officers of the corporation. The collective responsibility for determining the annual budget, levying assessments, proposing and enforcing the rules and regulations of the Association and performing the Association's duties in general rests with the Board and the officers. Although the Board may delegate the performance of its duties, it cannot be relieved of its responsibilities.

### ASSESSMENTS

Except for the maintenance of the interior of each Unit, the Association has the responsibility of maintaining, repairing and protecting the condominium project as a whole. In order to raise funds to perform its obligations in this respect, the Association Board has the power to levy assessments against the owners of the Condominium Units based upon an annual budget prepared by the Board. These assessments are usually paid in monthly installments. However, the Declaration also provides that for unforeseen or unusual expenditures, the Board may levy a special assessment which may either be paid in monthly installments or in a lump sum as the Board determines.

Assessments are the personal obligation of each owner and remain a lien upon each owner's Condominium Unit until paid.

Assessments can be enforced by a court action, which may include a foreclosure of the lien and a judgment for money for damages, court costs and attorney's fees.

Assessments may be levied to pay insurance premiums for casualty, liability, workmen's compensation, fidelity or other insurance; commonly metered or commonly provided utilities such as sewer, trash removal and water; building and grounds maintenance, repair and upkeep; and salaries of employees of the Association.

The Declarant, as an owner of Condominium Units, is also obligated to pay assessments as they are levied the same as any other owner until he sells and conveys his Units. At that time, the obligation to pay the assessment as to any particular Unit shall transfer to the new owner thereof.

#### PROJECT EXPANSION

The real property on which the condominium project is located is sufficiently large to accommodate additional parking area between Units 102-A, B, C and D and Units 104-A, B, C and D where indicated on the Condominium Map as "LCE Future Parking Area". Declarant has reserved the right to Units 102-A, B, C and D to construct this additional parking area, at their own expense, and to amend the Condominium Map and Declaration to reflect this new construction. The Declarant has also reserved the right to amend the Condominium Map and Declaration to permit other adjustments within the project as circumstances may require. The purpose of permitting the construction of additional parking is to alleviate an already crowded parking condition. The cost, however, will only be borne by those persons using it. In this way, the project expansion should be beneficial to all condominium unit owners.

#### OTHER PROVISIONS

The condominium documents are lengthy and address in detail not only the matters highlighted herein, but other matters of importance, including, without limitation, the handling of insurance proceeds, obsolescence of buildings, effects of eminent domain, repair and reconstruction, and other rights and restrictions upon the Association, owners and Declarant.

This Information Brochure is intended to introduce and highlight some of the basic characteristics of condominium ownership and provisions of the condominium documents. Further reference to the condominium documents should be made for specific details.

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O. F. Christensen

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O. F. Christensen

DECLARATION - PARK DRIVE CONDOMINIUMS

THIS DECLARATION - PARK DRIVE CONDOMINIUMS is made and declared this 18<sup>th</sup> day of May, 1981, by O. F. CHRISTENSEN, hereinafter referred to as the "Declarant".

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain real property in Mesa County, Colorado, sometimes hereinafter referred to as the "Real Property", being more particularly described as follows:

Block 3 of OLYMPIC ACRES SUBDIVISION Replat of  
Lots 22 - 25, PARK LANE SUBDIVISION, City of Grand  
Junction.

WHEREAS, Declarant intends to provide for the condominium ownership of the Real Property under the Condominium Ownership Act of the State of Colorado and to define the character, duration, rights, obligations and limitations of condominium ownership of Park Drive Condominiums, and for such purpose executes this Declaration - Park Drive Condominiums, hereinafter referred to as the "Declaration";

NOW, THEREFORE, Declarant hereby declares that the Real Property and all buildings and other improvements located thereon shall be held, conveyed, devised, encumbered, used, occupied and improved and otherwise affected in any manner subject to the provisions of this Declaration, each and all of which provisions are hereby declared to be in furtherance of the general plan and scheme of condominium ownership hereinafter set forth, and are further declared to be for the benefit of the Real Property and improvements situate thereon in every part thereof and for the benefit of each Owner, and all provisions hereof shall be deemed to run with the land as covenants running with the land or as equitable servitudes as the case may be, and shall constitute benefits and burdens as to the Declarant and his assigns and to all persons hereafter acquiring or owning any interest in the Real Property or improvements thereon, however such interest may be obtained.

ARTICLE I. DEFINITIONS

1.1 Association. "Association" shall mean and refer to the Park Drive Condominium Association, Inc., a non-profit corporation organized under the laws of the State of Colorado, and its successors and assigns.

1.2 Board. "Board" shall mean and refer to the Board of Managers of the Association.

1.3 Buildings. "Buildings" shall mean and refer to any building or similar structure, including all fixtures and improvements therein contained, situate on the Real Property.

1.4 Common Elements. "Common Elements" shall mean all of the Condominium Project except all Units, and includes, but is not limited to, all amenities. Common Elements shall be divided into two categories, "General Common Elements" and "Limited Common Elements" having the definitions below:

1.4.1 "General Common Elements" means all Common Elements except all Limited Common Elements, and may be designated by abbreviation on the Condominium Map as "G.C.E.";

1.4.2 "Limited Common Elements" means those Common Elements designated or reserved herein or on the Condominium Map for the exclusive use by fewer than all of the Owners of Units, and may be designated by abbreviation on the Condominium Map as "LCE".

1.5 Condominium Map. "Condominium Map" means a plat or survey, or any supplement or amendment thereto, of the Real Property, showing

a survey and legal description thereof, the location of all Buildings with respect to the boundaries of the Real Property, together with floor plans of each Building, showing the boundaries of each Unit, together with Unit numbers identifying the Units, including horizontal and vertical locations and dimensions of each Building, together with such other information as may be included thereon in the discretion of the Declarant.

1.6 Condominium Unit. "Condominium Unit" means a Unit together with an appurtenant and undivided interest in the Common Elements in the percentage set forth on Exhibit "A", or any amendments to Exhibit "A".

1.7 Declaration. "Declaration" means this Declaration - Park Drive Condominiums, and any supplements or amendments thereto.

1.8 Declarant. "Declarant" shall mean O. F. Christensen.

1.9 Owner. "Owner" means any person or entity at any time owning a Condominium Unit; the term "Owner" shall exclude any Mortgagee, as hereinafter defined, unless such Mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

1.10 Mortgage. "Mortgage" means any mortgage, deed of trust or other security instrument by which a Condominium Unit or any part thereof is encumbered. Unless specifically excepted by a Mortgage, all amenities are a part of the Condominium Project and shall be covered by the Mortgage to the same extent as the Common Elements.

1.11 Mortgagee. "Mortgagee" means any person or entity named as the mortgagee or beneficiary under any mortgage or deed of trust by which the interest of any Owner in a Condominium Unit is encumbered.

1.12 Project. "Project" and "Condominium Project" shall collectively mean the Real Property and the Buildings and other improvements located on the Real Property.

1.13 Real Property. "Real Property" means the tract of land described in the first recital hereof.

1.14 Unit. "Unit" means an individual air space unit, consisting of enclosed rooms in a Building and bounded by the interior surfaces of the perimeter walls, floors, ceilings, windows and doors thereof as shown and numbered on the Condominium Map to be filed for record, together with all fixtures and improvements therein contained. Notwithstanding such markings, the following are not part of the Unit:

Bearing walls, floors and roofs (except for the interior surface thereof, if a perimeter wall, floor or ceiling), foundations, shafts, central heating, air conditioning equipment, tanks, pumps and other services used by more than one Unit, pipes, vents, ducts, flues, chutes, conduits, wires and other utility installations, wherever located, except the outlets thereof when located within the Unit. The interior surfaces of a perimeter window or door means the points at which such services are located when such windows or doors are closed; the physical perimeter windows and doors themselves being part of the Common Elements.

## ARTICLE II. PREPARATION AND FILING OF THE CONDOMINIUM MAP.

2.1 The Condominium Map shall be prepared and filed for record in the real estate records of the County Clerk and Recorder of Mesa County, Colorado, contemporaneously with the recording of the Declaration. The Condominium Map shall reflect the true location of the Buildings, Units and Common Elements, as built.

## ARTICLE III. NATURE AND INCIDENTS OF CONDOMINIUM OWNERSHIP.

3.1 Estates of an Owner. The Project is hereby divided into 12 Condominium Units, each consisting of a separate fee simple interest

in a Unit and an undivided percentage fee simple interest in the Common Elements, as is set forth in Exhibit "A", or any amendment to Exhibit "A". Such undivided interests in the Common Elements are hereby declared to be appurtenant to the respective Units.

**3.2 Right to Combine Units.** Declarant reserves the right and Owners, upon obtaining written permission of the Association, hereafter defined, are granted the right to combine physically the area or space of one Unit with the area or space of one or more adjoining Units on the same floor of a Building. Such combination shall not affect the designation nor prevent separate ownership of such Units in the future. Any walls or other structural separations between combined Units, or any space which would be occupied by such structural separation but for the combination of Units shall remain Common Elements. Alterations to walls or other structural separations shall not alter the bearing capabilities of such structures, shall not adversely affect other Owners, and shall have the prior written consent of the Association. Declarant reserves the right to designate and convey to any purchaser of such combined Units as additional limited Common Elements any walls, floors or other structural separations between Units so combined, or any space which would be occupied by such structural separations but for the combination of the Units. Such structural separations and space shall automatically become General Common Elements if the combined Units become subject to separate ownership in the future.

**3.3 Limited Common Elements.** That portion of the Common Elements designated on the Condominium Map as "Limited Common Elements" or "LCE" is hereby set aside and reserved for the exclusive use, occupancy, control, maintenance and repair of and by the Owner or Owners whose Unit or Units is or are designated on such Limited Common Elements on the Condominium Map.

**3.4 Title.** Title to a Condominium 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 Colorado, including, but without limitation, joint tenancy or tenancy in common.

**3.5 Inseparability.** No part of a Condominium Unit or of the legal rights comprising ownership of a Condominium Unit may be separated from any other part thereof during the period of condominium ownership prescribed herein, so that each Condominium Unit and the undivided interest in the Common Elements appurtenant to such Condominium Unit shall always be conveyed, devised, encumbered, and otherwise affected only as a complete Condominium Unit. Every gift, devise, bequest, transfer, encumbrance, conveyance or other disposition of a Condominium Unit or any part thereof shall be presumed to be a gift, devise, bequest, transfer, encumbrance or conveyance, respectively, of the entire Condominium Unit together with all appurtenant rights created by law or by this Declaration.

**3.6 Partition not Permitted.** The Common Elements shall be owned in common by all the Owners of Units, and no Owner may bring any action for partition thereof.

**3.7 Owner's Rights and Easements to Common Elements.** Subject to the limitations contained in this Declaration, each Owner shall have a non-exclusive right and easement of ingress and egress over, across and upon the General Common Elements for the purpose of using and enjoying the same, getting to and from his Unit, parking area, and public ways for pedestrian and vehicular traffic, which right and easement shall be appurtenant to, and pass with the transfer of title to each Owner's Unit. Each Owner shall the exclusive right to the use and enjoyment of the Limited Common Elements designated for use by a Condominium Unit. The Owner's non-exclusive right to the use of any General Common Elements, including amenities, shall be subject to the following:

**3.7.1** The covenants, conditions, restrictions, easements, reservations, rights of way and all other provisions contained in this Declaration or as set forth on the Condominium Map;

3.7.2 The right of the Association to adopt, from time to time, rules and regulations regarding the reasonable use of the Common Elements and the facilities located thereon as the Association may determine is necessary or prudent.

3.8 Owner's Rights with Respect to Interiors. Each Owner shall have the exclusive right to paint, repaint, tile, carpet, drape, wax, paper or otherwise finish or refinish and decorate the interior surfaces of the walls, ceilings, floors, windows and doors forming the boundaries of his Unit. No Owner shall place anything in or on the Unit windows which is in variance with the general appearance of the Project.

3.9 Easements for Encroachments. If any part of the Common Elements 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 Elements, or upon an adjoining Unit or Units, an 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 Elements or the Units. Encroachments referred to herein include, but are not limited to, encroachments caused 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.

3.10 Easements of Access for Repair, Maintenance and Emergencies. Some of the Common Elements are or may be located within the Units or may be conveniently accessible only through the Units. The Owners of other Units shall have the irrevocable right, to be exercised by the Association, hereafter defined, as their agent, to have access to each Unit and to all Common Elements from time to time during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Elements located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Elements or to another Unit or Units. The Association shall also have such right independent of any agency relationship. Damage to the interior or any part of a Unit or Units resulting from the maintenance, repair, emergency repair or replacement of any of the Common Elements or as a result of emergency repairs within another Unit at the instance of the Association or of the Owners shall be an expense of all of the Owners if such repair was to a General Common Element. In the event, however, such repair was to a Limited Common Element, the Owners of Units having the exclusive use of such Limited Common Element shall bear the expense of such repairs. In the event the damage to a General Common Element is the result of the 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 to substantially the same condition as existed prior to damage. The amounts owing by Owners pursuant hereto shall be collected by the Association by assessment pursuant to Article VIII.

3.11 Owner's Right to Ingress and Egress and Support. Each Owner shall have the right to ingress and egress over, upon and across the Common Elements necessary for normal access to his Unit and shall have the right to the horizontal and lateral support of his Unit, and such rights shall be appurtenant to and pass with the title to each Condominium Unit.

3.12 Association's Right to Use of Common Elements. The Association shall have a non-exclusive easement to make such use of the Common Elements 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 storage, irrigation and trash collection facilities for use by the Association in the General Common Elements.

3.13 Easements Deemed Created. All conveyances of Condominium Units hereafter made, whether by Declarant, or otherwise, shall be construed to grant and reserve such reciprocal easements as set forth in this Article, even though no specific reference to such easements

or to this Article appear in such conveyance.

3.14 Ad Valorem Taxation. After the Condominium Map shall have been filed for record in Mesa County, Colorado, Declarant shall deliver a written notice to the Assessor of Mesa County, Colorado, as provided by law, setting forth the descriptions of the Condominium Units so that each Condominium Unit shall be assessed separately thereafter for all taxes, assessments, and other charges of the State of Colorado or of any political subdivision or of any special improvement district or of any other taxing or assessing authority. No forfeiture or sale of any Condominium Unit for delinquent taxes, assessments or other governmental charges shall divest or in any way affect the title to any other Condominium Unit.

3.15 Liens Prior to First Mortgage. All taxes, assessments and charges which may become liens prior to the first Mortgage under local law shall relate only to the individual Condominium Units and not to the Condominium Project as a whole.

#### ARTICLE IV. CONVEYANCE AND DESCRIPTION OF A CONDOMINIUM UNIT.

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

Condominium Unit \_\_\_\_\_ as shown on the Condominium Map for Park Drive Condominiums appearing in the records of the County Clerk and Recorder of Mesa County, Colorado, in Reception No. \_\_\_\_\_, and as defined and described in that Declaration - Park Drive Condominiums, appearing in such records at Book \_\_\_\_\_, and Page \_\_\_\_\_.

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

#### ARTICLE V. MECHANIC'S LIEN RIGHTS.

No labor performed or materials furnished for use in connection with any Unit, or any Limited Common Element designated for the exclusive use of a Unit, with the consent or at the request of an Owner or his agent or subcontractor shall create any rights to file a statement of mechanic's lien against the Unit of any other Owner not expressly consenting to or requesting the same or against any interest in the Common Elements except as to the undivided interest therein appurtenant to the Unit of the Owner for whom such labor shall have been performed and such materials shall have been furnished. Each Owner shall indemnify and hold harmless each of the other Owners from and against liability or loss arising from the claim of any lien against the Condominium Unit, or any part thereof, of any other Owner for labor performed or for materials furnished in work on the first Owner's Unit. At the written request of any Owner, the Association shall enforce such indemnity by collecting from the Owner of the Unit on which the labor was performed and materials furnished the amount necessary to discharge any such lien, including all costs and attorney's fees of the Association incidental thereto, and obtaining discharge of the lien. Such collection shall be made by a special assessment pursuant to Article VIII.

#### ARTICLE VI. THE ASSOCIATION

6.1 Membership. Every Owner shall be entitled and required to be a member of the Association, a non-profit corporation organized under the laws of the State of Colorado. If title to a Condominium

Unit is held by more than one person, the membership related to that Condominium Unit shall be shared by all such persons in the same proportionate interests and by the same type of tenancy in which the title to the Condominium Unit is held. An Owner shall be entitled to one membership for each Condominium Unit owned by him. No person or entity other than an Owner may be a member of the Association and the memberships in the Association may not be transferred except in connection with the transfer of a Condominium Unit; provided, however, that the rights of membership may be assigned to a Mortgagee as further security for a loan secured by a lien on a Condominium Unit.

6.2 Voting Rights. The Association shall have one class of memberships. Each membership shall be entitled to that percentage vote as is set forth in Exhibit "A"; provided, however, Declarant shall retain the right to elect the Association Board until the happening of either of the following events, whichever occurs first:

6.2.1 Nine (9) Condominium Units having been conveyed by deed from the Declarant to Owners; or

6.2.2 Two (2) years following the date of recording of the Declaration.

Voting rights are further amplified in the Articles of Incorporation and By-Laws of the Association.

6.3 Transfer. Except as otherwise expressly stated herein, any of the rights, interests, obligations or duties of the Association set forth herein or reserved herein may be transferred, assigned, or delegated to any other person or entity, including the engaging of the services of a professional manager or managing agent, subject to the following limitations:

6.3.1 No transfer, assignment or delegation shall relieve the Association or the Board from the obligations and responsibilities set forth in the Declaration;

6.3.2 Any transfer, assignment or delegation shall not revoke or change any of the rights or obligations of any Owners as set forth in the Declaration;

6.3.3 Any agreement for professional management of the Condominium Project, or any other contract providing for the services of the Declarant, may not exceed three (3) years, and such agreement shall be in writing and provide for the termination by either party without cause and without payment of termination fee on ninety (90) days' or less written notice.

6.4 Amplification. The Association may exercise any and all other rights or privileges given to it by this Declaration, by its Articles of Incorporation or By-Laws, or as may otherwise be given to it by law reasonable or necessary to carry out its purposes as set forth herein and under the Articles of Incorporation or By-Laws. Notwithstanding any other provision which may be in this Declaration to the contrary, and except as may be provided by statute in the case of condemnation or substantial loss to the Units and/or Common Elements of the Condominium Project, unless at least two-thirds of the first Mortgagees (based upon one vote for each first Mortgage owned), and Owners (other than the Declarant) of the individual Condominium Units have given their prior written approval, the Association shall not be entitled to:

6.4.1 By act or omission, seek to abandon or terminate the Condominium Project;

6.4.2 Change the pro rata interest or obligations of any individual Condominium Unit for the purpose of (1) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (2) determining the pro rata share of ownership of each Condominium Unit in the Common Elements;

6.4.3 Partition or subdivide any Condominium Unit;

6.4.4 By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements (easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Condominium Project shall not be deemed a transfer within the meaning of this clause);  
or

6.4.5 Use hazard insurance proceeds for losses to any Condominium property (whether to Units or Common Elements) for other than repair, replacement or reconstruction of such Condominium property, except as provided by statute in the case of substantial loss to the Units and/or Common Elements to the Condominium Project.

ARTICLE VII. CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION.

7.1 The Common Elements. The Association, subject to the rights of the Owners set forth in Article III hereof, shall be responsible for the exclusive management and control of the Common Elements 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; however, each Owner of a Condominium Unit shall keep the Limited Common Elements designated for use in connection with his Unit in a clean, sanitary and attractive condition. The Association shall be responsible for the maintenance and repair of exterior surfaces of buildings and improvements located on the Project, including, without limitation, the painting of the same as often as necessary, the replacement of trim and caulking, the maintenance and repair of roofs, the maintenance and repair of other Common Elements, including utility lines and all other improvements or materials located within or used in connection with the Common Elements. The Association shall maintain in a neat, clean and well cultivated condition all landscaping constituting part of the Common Elements. The specifications of duties of the Association with respect to particular Common Elements shall not be construed to limit its duties with respect to other Common Elements, as set forth in the first sentence in this section. The cost of such management, operation, maintenance, repair and improvement shall be borne as provided in Article VIII.

The Association shall have the right to grant easements for utility purposes over, upon, under or through any portion of the Common Elements, and is hereby irrevocably appointed as attorney in fact for each Owner for such purpose.

7.2 Miscellaneous Services. The Association 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 Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom it contracts. The Association 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 Association may arrange with others to furnish lighting, heating, water, trash collection, sewer service, snow removal and other common services to each Unit. The cost of such services shall be borne as provided in Article VIII.

7.3 Personal Property for Common Use. The Association may acquire and hold for the use and benefit of Owners of Units 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 of Units in the proportion of their ownership interest in the Common Elements. Such interest shall not be transferrable except with the transfer of a Condominium Unit. A transfer of a Condominium Unit shall transfer to the transferee ownership of the transferor's beneficial interest in such property without any reference thereto. Each Owner of a Condominium Unit 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 of Condominium Units. The transfer of title to a Condominium Unit under foreclosure shall entitle the purchaser to the interest in such personal property associated with the foreclosed Condominium Unit.

7.4 Rules and Regulations. Upon majority vote of the Board, the Association may make and the Owners shall comply with rules and regulations governing the use of the Common Elements and personal property for common use, which rules and regulations shall be consistent with the rights and duties established in this Declaration.

7.5 Rights. The Association may suspend any Owner's voting rights in the Association during any period or periods during which such Owner fails to comply with any obligation of such Owner under this Declaration. The Association may also take judicial action against any Owner to enforce compliance with such obligations or to obtain damages for non-compliance, all to the extent permitted by law. The Association may exercise any 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.

#### ARTICLE VIII. ASSESSMENTS.

8.1 Agreement to Pay Assessment. Declarant, for each Condominium Unit owned by him within the Project, and for and as the Owner of the Project and every part thereof, hereby covenants, and each Owner of any Condominium 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 Association to pay to the Association regular assessments made by the Association for the purposes provided in this Declaration, and special assessments for the matters as provided in Section 8.5 or elsewhere in this Declaration. Such assessments shall be fixed, established and collected from time to time in the manner provided in this Article.

8.2 Amount of Regular Assessments. The regular assessments against all Condominium Units shall be based upon advance estimates by the Association to provide for the payment of all estimated expenses for a period of one year arising out of or connected with the maintenance and operation of the Common Elements and furnishing utilities and other services to the Units. Said estimated expenses may include, but are not limited to, management; insurance premiums; landscaping and care of the Common Elements and Buildings; utilities for the Common Elements such as lighting, heating, water and electricity; snow removal; trash and garbage collection; sewer service; repairs, replacements and maintenance; wages for Association employees; legal and accounting fees; any deficit remaining from a previous period; and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under or by reason of this Declaration. The Association shall also create a reasonable and adequate contingency reserve, surplus or sinking fund for maintenance, repairs and replacement of those Common Elements that must be replaced on a periodic basis, assessments for such reserve, surplus or sinking fund to be paid in regular monthly installments rather than by special assessments.

8.3 Apportionment of Assessments. Any assessments (both regular or special) assessed pursuant hereto against all Owners shall be assessed to all Owners in proportion to their percentage interests in the Common Elements as stated on Exhibit "A". Any assessments assessed pursuant hereto against less than all of the Owners shall be assessed to such Owners in proportion to their percentage interests computed by dividing an Owner's percentage interest in Common Elements by the sum total of all percentage interest in Common Elements excluding from such total the percentage interest in Common Elements of the Owners who are not to be assessed.

8.4 Notice of Regular Assessments and Time for Payment Thereof. Following the determination of regular assessments, the Association

shall give written notice to each Owner as to the amount of the regular assessment with respect to his Condominium Unit on or before the first day of each calendar year. Regular assessments shall be paid without the requirement of further notice in twelve (12) equal monthly installments, the first installment being due the 1st day of the first month of the year for which the regular assessment is made, and the 1st day of each month thereafter until paid in full. Monthly installments of the regular assessments which are not paid by the 10th day of each month shall be delinquent. Delinquent payments of regular assessments shall bear interest from the date of delinquency until paid at the rate of one percentage point above the prime interest rate of the First National Bank in Grand Junction, the prime rate to be determined as of the date the assessment first becomes delinquent. Failure of the Association to give timely notice of the annual regular assessment as provided herein shall not affect the liability of the Owner of any Condominium Unit for such regular assessment, but the date when the monthly payments shall commence in such case shall be ten (10) days after such notice shall have been given. In the event an Owner shall fail to bring delinquent regular assessments current within twenty (20) days of written notice of delinquency given by the Association, together with interest thereon, the Association may accelerate and declare immediately due and payable the balance of such Owner's regular assessment for that year. Upon acceleration, unpaid regular assessments, interest and penalties shall be deemed principal, and shall draw interest from the date of acceleration at the same rate as delinquent regular assessments.

**8.5 Special Assessments.** In addition to the monthly regular assessments authorized by this Article, the Association may levy special assessments, payable over such a period as the Association 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, capital improvements authorized by a two-thirds vote of the Association membership, deficiencies in operating funds from regular assessments, or for any other expense incurred or to be incurred as provided in this Declaration. This section shall not be construed as an independent source of authority for the Association to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized hereunder by other Sections of the Declaration which shall make specific reference to this Article. Any amounts assessed pursuant hereto against all Owners shall be assessed to all Owners in proportion to their percentage interests in the Common Elements. Any amounts assessed pursuant hereto against less than all of the Owners shall be assessed to such Owners in proportion to their percentage interests computed by dividing an Owner's percentage interest in Common Elements by the sum total of all percentage interests in Common Elements excluding from such total the percentage interests in Common Elements of the Owners who are not to be assessed. Notice in writing of the amount of such special assessments and the time and method of payment thereof shall be given promptly to the Owners. Payment of a special assessment may be made in any manner deemed reasonable or necessary by the Association, including monthly installments. A special assessment shall be deemed delinquent if not paid within thirty (30) days of the due date if the same is payable in a single payment, or within ten (10) days of the due date of each month, if the same is due in monthly installments. Delinquent special assessments hereunder shall bear interest at the same rate for delinquent regular assessments pursuant to Section 8.4, and the Association may accelerate the balance due of any special assessment remaining delinquent following twenty (20) days written notice in the same manner as regular assessments.

**8.6. Lien for Assessments.** All sums assessed to any Condominium Unit pursuant to this Article, together with interest thereon as provided herein, shall be secured by a lien on such Condominium Unit in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Condominium Unit, except only for: (a) valid tax and special assessment liens on the Condominium Unit in favor of any governmental assessing authority provided such lien is by law made prior to the lien created by this Article; and (b) a lien for all sums unpaid on the first Mortgage duly recorded in the Mesa County, Colorado, real estate records including all unpaid obligatory advances

to be made pursuant to such Mortgage and all amounts advanced pursuant to such Mortgage and secured by the lien thereof in accordance with the terms of such instrument. All other lienors acquiring liens on any Condominium Unit after the 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 the lien created for sums assessed pursuant to this Article, the Association 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 Condominium Unit and a description of the Condominium Unit. Such a notice shall be signed by the Association and may be recorded in the office of the County Clerk and Recorder of Mesa County, Colorado. 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 Association in the same manner in which mortgages on real property may be foreclosed in Colorado. 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 Owner shall also be required to pay the Association any assessments against the Condominium Unit which shall become due during the period of foreclosure. The Association shall have the right and power to bid at the foreclosure sale or other legal sale and to acquire, hold, convey, encumber and otherwise deal with the same as the Owner thereof.

A release of notice of lien shall be executed by the Association and recorded in the Mesa County, Colorado, real estate records, 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 Condominium 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 Association with respect to such lien, including priority.

Upon the written request of any encumbrancer of a Condominium Unit, specifically including any first Mortgagee, the Association shall give written notification of any default in the performance by any individual Condominium Unit Owner of any obligation under the Declaration or Association Articles of Incorporation or By-Laws not cured within sixty (60) days of such default, specifically including any assessments remaining unpaid for a period of sixty (60) days following the date they are due and payable.

8.7 Personal Obligations of Owner. The amount of any assessment against any Condominium Unit shall be the personal obligation of the Owner thereof to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish such personal obligation by waiver of the use and enjoyment of any of the Common Elements or by abandonment of his Condominium Unit.

8.8 Statement of Account. Upon payment of a reasonable fee to be determined from time to time, but not to exceed \$35, and upon ten (10) days advance written request in the manner provided in Section 18.2 hereof, of any Owner or any Mortgagee, prospective Mortgagee or prospective purchaser of a Condominium Unit, the Association shall issue a written statement of the Owner's account setting forth the amount of the unpaid assessments, if any, with respect to such Condominium Unit, the amount of the current monthly assessment and the date that such assessment becomes due, credit for advanced payments or prepaid items, including, but not limited to, an Owner's share of prepaid insurance premiums, which statement shall be conclusive upon the Association in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within twenty (20) days, all unpaid assessments which became due prior

to the date of making such request shall be subordinate to the lien of a Mortgagee which acquired its lien subsequent to requesting such statements. Where a prospective purchaser makes such request, both the lien for such unpaid assessments and the personal obligation of the purchaser shall be released automatically if the statement is not furnished within the twenty-day period provided herein, and the purchaser subsequently acquires the Condominium Unit.

8.9 Personal Liability of Purchaser or Successor for Assessments. Subject to the provisions of Section 8.8, purchasers or successors in title to a Condominium Unit shall be jointly and severally liable for all unpaid assessments against the Condominium Unit up to the time of the grant of conveyance, without prejudice to the purchaser's or successor's right to recover from the seller or predecessor in interest the amount paid for such assessments; provided, however, any first Mortgagee who obtains title to a Condominium Unit pursuant to the remedies provided in the Mortgage or the foreclosure of Mortgage, shall not be liable for such Condominium Unit's unpaid dues, charges or assessments which accrue prior to the acquisition of title to such Condominium Unit by the Mortgagee.

8.10 Inspection of Records. Any Owner or Mortgagee may inspect the records of the receipts and expenditures of the Board and the Association, pursuant to § 38-33-107, C.R.S. 1973, at convenient weekday business hours.

ARTICLE IX. USE OF CONDOMINIUM UNITS AND COMMON ELEMENTS.

9.1 Use of Condominium Units.

9.1.1 Each Condominium Unit shall be solely used for the residence of one family only. Lease or rental of a Unit for lodging or residential purposes shall not be considered to be a violation of this covenant.

9.1.2 No Condominium Unit may be used for commercial purposes of any type whatsoever excepting for home occupations. For the purposes of this Subsection, "home occupations" shall mean an occupation by the resident conducted totally within the Unit which does not entail the employment of third persons on the premises and does not entail the delivery of goods or services to customers upon the premises. For illustration purposes, but not by limitation, an insurance agent may use his Unit as a personal office so long as customers are not permitted to come to the Unit.

9.1.3 No Condominium Unit shall be structurally altered in such a fashion as to affect the bearing capabilities of the Building or affect plumbing, electrical or other utilities within the Common Elements, without the prior written consent of the Association.

9.1.4 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, and shall keep the Limited Common Elements designated for use in connection with his Unit in a clean, sanitary and attractive condition, and shall keep the heating equipment and water heater serving his Unit exclusively in a good state of maintenance and repair.

9.2 Use of General Common Elements.

9.2.1 There shall be no obstruction of the General Common Elements with any personal property of any Owner.

9.2.2 No improvement upon the General Common Elements shall be removed, changed, replaced or modified whether by repair, maintenance or restoration in such a manner so as to alter the appearance thereof without the prior written consent of the Association. Furthermore, no Owner, or their

guests or invitees, shall construct or maintain anything upon the General Common Elements except upon the written consent of the Association.

### 9.3 Use of Limited Common Elements.

9.3.1 The Limited Common Elements shall be solely used by the Owners in such a fashion to be consistent with the character and visual appearance of the Condominium Project. No Owner shall obstruct, or store his personal property, on any part of a Limited Common Element reserved for the use of more than one Owner, without the consent of the other Owners having the use of such Limited Common Element.

9.3.2 All plantings and personal property of the Owners kept, maintained or used upon the Limited Common Elements shall be consistent with the character and visual appearance of the Condominium Project.

9.3.3 No Common Element shall be enclosed or covered by any permanent or temporary structure or device without the prior written consent of the Association.

### 9.4 Prohibition of Damage and Certain Other Activities.

9.4.1 Nothing shall be done or kept in any Unit or in the Common Elements or any part thereof which would result in cancellation of the insurance on the Project or any part thereof or which would result in an increase in the rate of the insurance on the Project or any part thereof over what the Association, but for such activity, would pay, without the prior written consent of the Association.

9.4.2 Nothing shall be done or kept in any Unit or in the Common Elements or any part thereof which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental authority.

9.4.3 No damage to, or waste of, the Common Elements or any part thereof shall be committed by any Owner, or any guest or invitee of any Owner, and each Owner shall indemnify and hold the Association and the other Owners harmless against all such losses resulting from any damage or waste caused by him or his guests or invitees.

9.4.4 No noxious, destructive, boisterous or offensive activity shall be carried on or in any Unit or on or in the Common Elements 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 other person at any time lawfully residing upon the Condominium Project. The Board of Managers shall have sole and absolute discretion in determining whether any activity is noxious, destructive, boisterous or offensive. The Board of Managers has the authority to open judgment upon such question to a vote of the membership of the Association.

9.4.5 The Association may by rules or regulations prohibit or limit the raising, breeding or keeping of animals, livestock, or poultry in any Unit or on the Common Elements or any part thereof.

9.4.6 Except for signs as may be used by Declarant in connection with the sale of Condominiums, no sign of any kind shall be displayed to the public view without the approval of the Board.

9.4.7 No clotheslines, television antennas, wiring or installation of air-conditioning or other machines shall be installed on the exterior of the Buildings, or be allowed to

protrude through the walls, the windows or the roof of the Buildings, unless the written approval of the Board is first obtained.

9.5 Parking. All motor vehicles of the Owners shall be kept and stored in the parking areas designated on the Condominium Map. Parking areas shall be used solely for parking of vehicles and shall not be converted for living, recreational or business purposes, nor shall anything be stored in any parking area so as to prevent the parking of a vehicle therein.

9.6 Garbage and Trash. Garbage, rubbish or trash shall not be allowed to accumulate on the Common Elements and shall be placed and kept in covered containers either within the Units or within the Limited Common Element patios adjacent to each Unit.

9.7 Enforcement. Without limiting any Owner or the Association in any proceeding at law or in equity to enforce any term or provision of this Declaration, specifically including the restrictions contained in this Article IX, the following enforcement remedies shall be allowed:

9.7.1 Any Owner shall be personally liable for any loss or damage to the Common Elements as a result of his violation of any provision in this Article IX, including violations caused by occupants, guests or invitees of his Unit, inclusive of tenants and family members. The Association may levy a special assessment against such Owner for such losses or damages, and collect and recover the same against such Owner in the same manner as any other special assessment may be collected or recovered under Article VIII of the Declaration.

9.7.2 The Association may on behalf of all Owners, or any Owner may on behalf of himself, commence and maintain any legal proceeding at law or in equity for the purpose of recovering damages for, or abating or enjoining, any violation of this Article IX. In such legal proceedings, the Association shall on behalf of all Owners, or any Owner shall on behalf of himself, be entitled to recover their legal costs and expenses incurred for such legal proceedings, including a reasonable attorney's fee.

#### ARTICLE X. ARCHITECTURAL CONTROL.

Except as provided in Article XVII below, no additions, modifications, improvements, alterations, or other construction, in, upon or to the Common Elements shall be commenced, erected or maintained, nor shall any exterior addition or change to any Building be made, until the plans and specifications showing the nature, kind, shape, height, materials and location shall have been first submitted to and approved in writing by the Board of Managers of the Association, as to the harmony of external design, consistency with the Declaration, and location in relation to the Buildings and topography. In addition, the Board shall have the authority to examine and approve any Unit's window coverings which are visible to the exterior and the personal property kept or maintained on the Limited Common Elements to insure consistency of the same with the external design and color of the Buildings and character of the Condominium Project. In the event said Board fails to approve or disapprove the design within thirty (30) days after said plans and specifications have been submitted to it, approval shall not be required and this Article will be deemed to have been fully complied with. The Board shall not have any liability to any person or Owner submitting requests for approval by reason of any action, failure to act, approval, disapproval or failure to approve or disapprove with regard to any request, examination or consent.

#### ARTICLE XI. INSURANCE.

11.1 Types of Insurance. The Association shall obtain and keep

in full force and effect at all times the insurance coverage described below to be provided by companies authorized to do business in the State of Colorado. The provisions of this Article shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage, in addition to the insurance coverage required hereunder, in such amounts and in such forms as the Association may deem appropriate from time to time. In order to facilitate the providing and maintaining of adequate and proper insurance, it is contemplated that Declarant may contract for blanket insurance coverage covering the Project as contemplated by this Article XI prior to or concurrently with the first conveyance of a Condominium Unit and any obligations or commitments for the payment of premiums or expenses otherwise incurred by Declarant under any such blanket policy or coverage, whether or not the same is also a personal obligation of the purchaser or purchasers of any Condominium Units, shall become an obligation of the Association and shall be paid for out of Association funds.

11.1.1 Casualty Insurance. The Association shall obtain insurance on the entire Condominium Project providing as a minimum fire and extended coverage and all other coverage in the kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location and use on a replacement cost basis in an amount not less than 100% of the insurable value (based on replacement cost). Such insurance shall include, but not be limited to, fire and extended coverage, vandalism and malicious mischief, and such other risks and hazards against which the Association shall deem it appropriate to provide insurance protection.

11.1.2 Public Liability and Property Damage Insurance. The Association shall maintain and keep in full force and effect at all times a comprehensive policy of public liability insurance covering all of the Common Elements and public ways in the Condominium Project. Such coverage may include, without limitation, liability for personal injury, water damage, contractual relations, operation of automobiles on behalf of the Association and activities in connection with the ownership, operation, maintenance and other use of the Condominium Project. Such insurance policies shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Condominium Unit Owner because of negligent acts of the Association or other Unit Owners. The scope of coverage must include such other coverage in the kinds and amounts required by private institutional mortgage investors for projects similar in construction, location and use.

11.1.3 Workmen's Compensation and Employer's Liability Insurance. The Association shall purchase workmen's compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in the forms now or hereafter required by law.

11.1.4 Other. The Association may obtain insurance against such other risks, as it may deem appropriate with respect to the Condominium Project, including any personal property of the Association located thereon.

11.2 Optional Insurance. The Association may obtain the following types of insurance coverage, but is not required to do so:

11.2.1 Casualty and Public Liability Insurance. The Association may in its discretion obtain casualty and public liability insurance coverage, in amounts it may select, with respect to an Owner's activities within each Unit and for activities of the Owner, not acting by the Association, with respect to the Common Elements.

11.2.2 Fidelity Insurance. The Association may purchase fidelity coverage against dishonest acts on the part of the Directors, Managers, Trustees, employees or volunteers responsible for handling funds belonging to or administered by the Association. If purchased, the fidelity bond or insurance must name the Association as the named insured and shall be written in an amount sufficient to provide protection which is in no event less than one and one-half times the

Association's estimated annual operating expenses and reserves. In connection with such coverage, an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

11.3 Owner's Responsibility. Insurance coverage on the furnishings initially placed in the Unit by the Declarant, unless the Association pursuant to Section 11.2 hereof elects to arrange for such casualty insurance (in which event Owner shall be responsible for the amount, if any, the replacement cost exceeds the insurance proceeds), and casualty and public liability insurance coverage within each individual Unit and for activities of the Owner, not acting by the Association, with respect to the Common Elements, unless the Association pursuant to Section 11.2 hereof elects to arrange for such insurance, and regardless of the Association'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, shall be the responsibility of the respective Owners. Notwithstanding provisions of Sections 11.1 and 11.2 hereof, each Owner may obtain insurance at his own expense providing coverage upon his Condominium Unit, his personal property, for his personal liability, and covering such other risks as he may deem appropriate, but such policy shall provide that it does not diminish the insurance carrier's coverage for liability arising under insurance policies which the Association obtains pursuant to this Article. All such insurance of the Owner's Condominium Unit shall waive the insurance company's right of subrogation against the Association, the other Owners, and the servants, agents and 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.

#### 11.4 Form.

11.4.1 The name of the insured under each required policy must be stated in form and in substance similar to the following:

"Park Drive Condominium Association, Inc. for the use and benefit of the Owners of Condominium Units in Park Drive Condominiums."

11.4.2 Each required policy must contain or have attached the standard mortgagee clause commonly accepted by private institutional mortgage investors in the area in which the Condominium Project is located providing that any proceeds shall be paid to the Association for the use and benefit of the mortgagees as their interests may appear.

11.4.3 The mortgagee clause must provide that the insurance carrier shall notify the first Mortgagee (or trustee) named therein at least ten (10) days in advance of the effective date of any reduction in or cancellation of such policy.

11.4.4 Each hazard insurance policy must be written by a hazard insurance carrier which has a financial rating by Best's Insurance Reports of Class VI or better. Hazard insurance policies are also acceptable from an insurance carrier which has a financial rating by Best's Insurance Reports of Class V, provided it has a general policy holders rating of at least A. Each carrier must be specifically licensed or authorized by law to transact business within the State of Colorado.

11.5 Insurance Proceeds. The Association shall receive the proceeds of any property insurance payments received under policies obtained by it and maintained by it pursuant to this Article. The Association shall apportion the proceeds to the portions of the Project which have been damaged and shall determine the amount of the proceeds attributable to damage to the Common Elements. To the extent that reconstruction is required herein, the proceeds shall be used for such purpose. To the extent that reconstruction is not required herein and there is a determination that the Project shall not be rebuilt, the proceeds shall be distributed to each of the Owners thereof in accordance with their respective interests therein, with

joint payments being made to the Owner and the Mortgagees where the Association has written notice of the existence of a Mortgage. Each Owner, Declarant, and each Mortgagee shall be bound by the apportionments of damage and of the insurance proceeds made by the Association pursuant hereto.

ARTICLE XII. CASUALTY DAMAGE OR DESTRUCTION.

12.1 Affects Title. Title to each Condominium 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 Condominium Unit.

12.2 Association as Agent. The Declarant and all of the Owners irrevocably constitute and appoint the Association 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 any Owner shall constitute appointment of the attorney in fact herein provided.

12.3 General Authority of Association. As attorney in fact, the Association 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 Condominium 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 sub-paragraphs mean restoring the Project to substantially the same condition in which it existed prior to damage, with each Unit and the Common Elements having substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance of the Association collected shall be available to the Association for the purpose of repair or reconstruction unless the Owners and first Mortgagees unanimously agree not to rebuild.

In the event any such Mortgagee should not agree not to rebuild, the Association shall have the option to purchase such Mortgage by payment in full of the amount secured thereby if the Owners are unanimously in agreement not to rebuild. The Association shall obtain the funds for such purpose by special assessments under Article VIII of this Declaration.

12.4 Estimate of Costs. As soon as practicable after an event causing damage to, or destruction of, any part of the Project, the Association shall obtain reliable and complete estimates of the costs of repair or reconstruction of that part of the Project damaged or destroyed.

12.5 Repair or Reconstruction. As soon as practicable after receiving these estimates, the Association shall diligently pursue to completion the repair or reconstruction of that part of the Project damaged or destroyed. The Association 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 in accordance with the original plans or may be in accordance with any other plans and specifications the Association 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 five percent (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 Building shall be substantially the same as prior to the damage or destruction.

12.6 Funds for Reconstruction. If the proceeds of any insurance collected are insufficient to pay the estimated or actual cost of such repair or reconstruction, the Association, pursuant to Article VIII hereof, may levy in advance a special assessment sufficient to provide funds to pay such estimated or actual costs of repair or reconstruction. Such special assessment shall be allocated and collected as provided in that Article. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair or reconstruction.

12.7 Disbursement of Funds for Repair or Reconstruction. The insurance proceeds held by the Association and the amounts received from the assessments provided for in Section 12.6 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 of 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 Owners in proportion to the contributions each Owner made, or would have made had there been an assessment(s) pursuant to Section 12.6 of this Declaration.

12.8 Decision Not to Rebuild. If the Owners and holders of first mortgages on Condominium Units unanimously agree not to rebuild, the Project shall be sold and the proceeds distributed in the same manner herein provided in the event of sale of obsolete Units, as set forth in Section 13.4.

#### ARTICLE XIII. OBSOLESCENCE.

13.1 Adoption of a Plan. The Owners representing an aggregate ownership interest of nine (9) or more of the Units, may agree to adopt a written plan for the renewal or reconstruction, which plan shall have the unanimous approval of all first Mortgagees of record at the time of the adoption of such plan. Written notice of adoption of such a plan shall be given to all Owners. Such plan shall be recorded in the Mesa County, Colorado, real estate records.

13.2 Payment for Renewal or Reconstruction. The expense of renewal or reconstruction shall be payable by all of the Owners as special assessments against their respective Condominium Units. These special assessments shall be levied in advance pursuant to Article VIII hereof and shall be allocated and collected as provided in that Article. Further levies may be made in like manner if the amounts collected prove insufficient to complete the renewal or reconstruction. In the event amounts collected pursuant to this Section are in excess of the amounts required for renewal or reconstruction, the excess shall be returned to the Owners by a distribution to each Owner in an amount proportionate to the respective amount collected from each such Owner.

13.3 Dissents From the Plan. An Owner not a party to such a plan for renewal or reconstruction may give written notice of dissent to the Association within fifteen (15) days after the recordation of such plan. The Association shall then give written advice of such dissents to all the Owners within five (5) days after the expiration of such fifteen-day period. Within fifteen (15) days of receipt of such notice from the Association, the Owners representing an aggregate ownership of more than three (3) of the Condominium Units, may cancel the plan by written instrument recorded in the Mesa County, Colorado, real estate records. If the plan is not cancelled, then the Condominium Units of each dissenter shall be purchased according to the procedures set forth herein. If the Owner and the Association can agree on the fair market value thereof, then such sale and conveyance shall be completed within sixty (60) days thereafter. If the parties are unable to agree, the date when either party notifies the other that he or it is unable to agree with the other shall be the "commencing date" from which all periods of time mentioned herein shall be measured. Within ten (10) days following the commencing date, each party shall nominate a qualified appraiser by written nomination and shall give notice of such nomination to the other. If either party fails to make such nomination, the appraiser nominated shall, within five (5) days after default by the other party, appoint and associate with him another qualified appraiser. If the two appraisers designated by the parties, or selected pursuant hereto in the event of default of one party, are unable to agree, they shall appoint another qualified appraiser to be umpire between them, if they can agree on such person. If they are unable to agree upon such umpire, then each appraiser previously appointed shall nominate two qualified appraisers, and from the names of the four persons so nominated, one shall be drawn by lot by a judge of any court of record in Colorado, and the person whose name is so drawn shall be the umpire. The nominations from among which the name of the umpire is to be drawn by lot shall be

submitted within ten (10) days of the failure of the two appraisers to agree, which, in any event, shall not be later than twenty days following the appointment of the second appraiser. In the event one of the appraisers fails to nominate the two qualified appraisers for selection by a judge, then the judge shall select the umpire from the names of those two qualified appraisers submitted by the other appraiser. The decision of the appraisers as to the fair market value or in the case of their disagreement, the decision of such umpire shall be final and binding. The expenses and fees of such appraisers shall be borne equally by the Association and the Owner. The sale shall be consummated within sixty (60) days after decision of the appraisers, and the Association as attorney in fact shall disburse the proceeds first to lienors in the order of the priority of their liens and the balance remaining to the Condominium Unit Owner. The obligation of the Association to make such purchase shall be conditioned on the fair market value of the Condominium Unit exceeding the obligations secured by liens on such Condominium Unit, and upon the marketability of the title of the Owner. The Owner shall furnish the Association an appropriate abstract of title or commitment for title insurance evidencing marketability of his title not less than fifteen (15) days prior to the date set for completion of the sale.

The Association, pursuant to Article VIII hereof, may levy a special assessment sufficient to provide funds to pay for the Condominium Units of the dissenter, provided that such assessments shall not apply to any Owner who is a dissenter and shall not be liens against the Condominium Units of such Owner.

13.4 Sale of Obsolete Units. The Owners representing an aggregate ownership interest of nine (9) or more of the Units may agree that the Condominium Units are obsolete and that the Project should be sold. Such an agreement must have the unanimous approval of every first Mortgagee of record at the time such agreement is made. In such instance, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association, the Project shall be sold by the Association as attorney in fact for all of the Owners free and clear of the provisions contained in this Declaration, the Condominium Map and the Articles of Incorporation and By-Laws of the Association, or any amendments or supplements thereto. The sale proceeds shall be apportioned among the Owners in proportion to their percentage interests in the Common Elements, and such apportioned proceeds shall be paid into separate accounts, each such account representing one Condominium Unit. Each such account shall remain in the name of the Association, and shall be further identified by the Condominium Unit designation and the name of the Owner. From each separate account, the Association, as attorney in fact, shall use and disburse the total amount of such accounts without contribution from one account to the other, first to lienors in the order of the priority of their liens and the balance remaining to each respective Owner.

In the event any Mortgagee should not agree to the sale of the Project, the Association shall have the option to purchase the Mortgage of such Mortgagee by payment in full of the amount secured thereby if the Owners representing an aggregate ownership interest of nine (9) or more of the Units are in agreement to sell. The Association shall obtain the funds for such purpose by special assessments under Article VIII of this Declaration.

#### ARTICLE XIV. CONDEMNATION.

14.1 Consequences of Condemnation. If at any time during the continuance of the condominium ownership pursuant to this Declaration, all or any part of the Project shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions shall apply.

14.2 Proceeds. All compensation, damages, or other proceeds therefrom the sum of which is hereinafter called the "Condemnation Award," shall be payable to the Association.

14.3 Complete Taking. In the event that the entire Project is taken or condemned, or sold or otherwise disposed of in lieu of or in

avoidance thereof, the condominium ownership pursuant hereto shall terminate. The Condemnation Award shall be apportioned among the Owners in proportion to their percentage interests in Common Elements, provided that if a standard different from the value of the Project as a whole is employed to measure the Condemnation Award in the negotiation, judicial decree, or otherwise, then, in determining such shares, the same standard shall be employed to the extent it is relevant and applicable.

On the basis of the principle set forth in the last preceding paragraph, the Association shall as soon as practicable, determine the share of the Condemnation Award to which each Owner is entitled. The Association shall distribute the Condemnation Award as soon as practicable thereafter to the parties in the shares so determined, such distribution to be made by checks payable jointly to the respective Owners and their respective Mortgagees.

14.4 Partial Taking. In the event that less than the entire project is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership hereunder shall not terminate. Each Owner shall be entitled to a share of the Condemnation Award to be determined in the following manner: As soon as practicable, the Association shall, reasonably and in good faith, allocate the Condemnation Award between compensation, damages, or other proceeds, and shall apportion the amounts so allocated among the Owners as follows: (a) the total amount allocated to taking of or injury to the Common Elements shall be apportioned among all Owners in proportion to their percentage interests in Common Elements, (b) the total amount allocated to severance damages shall be apportioned to those Condominium Units which were not taken or condemned, (c) the respective amounts allocated to the taking of or injury to a particular Unit and/or improvements an Owner has made within his own Unit shall be apportioned to the particular Unit involved, and (d) the total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable in the circumstances. If an allocation of the Condemnation Award is already established in negotiation, judicial decree, or otherwise, then in allocating the Condemnation Award, the Association shall employ such allocation to the extent it is relevant and applicable. Distribution of apportioned proceeds shall be made by checks payable jointly to the respective Owners and their respective Mortgagees.

14.5 Reorganization. In the event a partial taking results in the taking of a complete Unit, the Owner thereof automatically shall cease to be a member of the Association. Thereafter, the Association shall reallocate the ownership interest in the Common Elements and percentage vote determined in accordance with the Declaration according to the same principles employed in this Declaration at its inception and shall submit such reallocation to the Owners of remaining Units for amendment of this Declaration as provided in Article XV hereof.

14.6 Reconstruction and Repair. Any reconstruction and repair necessitated by the condemnation shall be governed by the procedures specified in Article XII hereof.

#### ARTICLE XV. REVOCATION OR AMENDMENT TO DECLARATION AND MAP.

15.1 Declaration. The Declarant reserves the right to make modifications, additions or deletions in or to this Declaration as may be required by a mortgage lender or insurer, provided that such modifications, additions or deletions at the instance of the Declarant will not result in material physical modifications of Buildings or improvements of the Condominium Project, and any such changes will not decrease the financial obligations of the Declarant as a Unit Owner. Except for rights of modification reserved to the Declarant as set forth in the preceding sentence, this Declaration shall not be revoked nor shall any of the provisions herein be amended unless the Owners representing an aggregate ownership interest of ten (10) or more of the Condominium Units, as reflected on the real estate records of Mesa County, Colorado, and the holders of any recorded mortgage covering or

affecting any or all of the Condominium Units, whose interest as Mortgagees appear in the Mesa County, Colorado, records, consent and agree to such revocation or amendment by instruments duly recorded. Any revocation or amendment meeting the requirements hereof shall be binding upon each Owner and each Condominium Unit regardless of whether the burdens thereon are increased or decreased by such amendment.

15.2 Condominium Map. Declarant reserves the right to amend the Condominium Map at any time following recordation of the same for the purpose of causing such Condominium Map to correctly and accurately depict the actual location and dimensions of Buildings and improvements located on the real property as disclosed by surveys of the same or to make such further amendments as may be required or permitted by the Condominium Ownership Act of the State of Colorado.

ARTICLE XVI. PERIOD OF CONDOMINIUM OWNERSHIP.

The Condominium ownership created by this Declaration and the Condominium Map shall continue until this Declaration and any amendments thereto are revoked in the manner provided in Article XV of this Declaration or until terminated in the manner provided in Articles XIII (Obsolescence) or XIV (Condemnation).

ARTICLE XVII. CONSTRUCTION OF ADDITIONAL PARKING AREA.

17.1 Construction of Additional Parking Area. At any time within seven (7) years from the recording of this Declaration, the Owners of Condominium Units 102A, B, C and D shall have the right to construct additional vehicle parking area within the Limited Common Element area designated on the Condominium Map lying between Condominium Units 102A thru D and Condominium Units 104E thru H. The construction of additional parking area hereunder shall require the unanimous consent of the Owners of Condominium Units 102A thru D.

17.2 Costs of Construction and Maintenance. All costs of construction shall be borne solely by the Owners of Condominium Units 102A thru D in equal portions. The Owners of Condominium Units 102A thru D shall also keep and maintain the additional parking area the same as any other Limited Common Element.

17.3 Exemption from Use Restriction and Easements of Ingress and Egress. During the period of construction, the Owners of Condominium Units 102A thru D shall be exempt from the use restrictions contained in Article IX of this Declaration to the extent reasonable or necessary to effectuate construction permitted hereunder. Furthermore, during the course of construction, the Owners of Condominium Units 102A thru D shall have reasonable easements of ingress and egress over and across the Common Elements for equipment, supplies and personnel to effect construction permitted hereunder.

17.4 Amended Condominium Map. On completion of the additional parking area, the Owners of Condominium Units 102A thru D shall cause, at their expense, an Amended Condominium Map to be prepared, signed by the Owners of Condominium Units 102A thru D, and recorded in the Mesa County real estate records, which shall depict the true location of the improvements as constructed.

17.5 Indemnity. In the event the Owners of Condominium Units 102A thru D elect to construct additional parking as permitted hereunder, said Owners shall indemnify and hold all other Condominium Unit Owners and the Association harmless from any and all liability or damages of any type whatsoever including claims, causes of action or mechanic lien rights arising from or in connection with the construction of the additional parking area permitted hereunder, inclusive of court costs and reasonable attorneys' fees incurred by the remaining Unit Owners or the Association for the purpose of investigating, negotiating, settling or litigating any and all such threatened or pending claim or cause of action.

ARTICLE XVIII. MISCELLANEOUS

18.1 Compliance with Provisions of Declaration and Articles of Incorporation and By-Laws of the Association. Each Owner shall comply with the provisions of this Declaration, the Articles of Incorporation and By-Laws of the Association, and the decisions and resolutions of the Association adopted pursuant thereto as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due, damages or injunctive relief or both, costs and expenses of such proceeding and all reasonable attorney's fees. Such action shall be maintainable by the Association on behalf of the Owners, or, in a proper case, by an aggrieved Owner.

18.2 Registration of Mailing Address; Notices. Each Owner shall register his mailing address with the Association and all notices, requests or demands intended to be served upon any Owner, except for budget statements, notices of meetings and other routine notices, shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. Unless otherwise provided herein, budget statements, notices of meetings and other routine notices may be sent by regular mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. All notices, requests or demands intended to be served upon the Association shall be given by registered or certified mail, postage prepaid, to the address of the Association as designated in the Articles of Incorporation or By-Laws of the Association. All notices, requests or demands to be served on Mortgagees pursuant hereto shall be sent either registered or certified mail, postage prepaid, addressed in the name of the Mortgagee at such address as the Mortgagee may have furnished to the Association in writing. Unless the Mortgagee furnishes the Association such address, the Mortgagee shall be entitled to receive none of the notices provided for in this Declaration. Any notice referred to in this section shall be deemed given when deposited in the United States mail in the form provided for in this section.

18.3 Owner's Obligations Continue. All obligations of the Owner under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that he may have conveyed said interest as provided herein, but the Owner of a Condominium Unit shall have no obligation for expenses or other obligations accruing after he conveys such Condominium.

18.4 Transfer of Declarant's Rights. Any rights or interests reserved hereby to the Declarant may be transferred or assigned by the Declarant.

18.5 Warranty. The Declarant disclaims any express or implied warranty of any type whatsoever or any representations made in connection therewith except as is set forth in this Declaration.

18.6 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 be not affected thereby.

18.7 Rule Against Perpetuity. If any of the options, privileges, covenants or rights created by this Declaration shall be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, that such provision shall continue only for the period of the life of O. F. Christensen, and his now living descendants, and for the survivor of them, plus twenty-one years.

18.8 Statute. The provisions of this Declaration shall be in addition and supplemental to the Condominium Ownership Act of the State of Colorado and to all other provisions of law.

18.9 Right of First Refusal. Nothing contained herein shall be deemed to create a right of first refusal on the part of the Association to purchase any Condominium Unit from any Owner.

18.10 Distributions of Proceeds. Notwithstanding anything to the contrary in this Declaration, or the Articles or By-Laws of the Association, no provision of this Declaration, Articles or By-Laws of the Association shall give a Condominium Unit Owner, or any other party, priority over any rights of the first Mortgagee of the Condominium Unit pursuant to its Mortgage in the case of a distribution to such Unit Owner of insurance proceeds or condemnation awards for loss to or taking of Condominium Units and/or Common Elements.

18.11 Restrictions on Alienation. Nothing contained in the Declaration shall constitute a restriction upon the sale, lease, restraint or free alienability of any Condominium Unit by the Owner thereof.

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

19.13 Applicability. This Declaration shall be binding upon the undersigned, his successors and assigns.

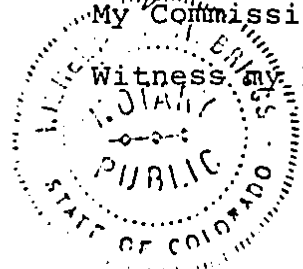
THIS DECLARATION is executed as of the 18th day of May, 1981.

O. F. Christensen  
O. F. CHRISTENSEN

STATE OF COLORADO )  
 ) ss.  
COUNTY OF MESA )

The foregoing instrument was acknowledged before me this 18th day of May, 1981, by O. F. Christensen.

My Commission expires: 5-27-84.



Witness my hand and official seal.

Wilhelmina M. Brugger  
Notary Public

EXHIBIT "A"

<u>UNIT NO.</u>	<u>INTERIOR SQUARE FOOTAGE</u>	<u>PERCENT OF OWNERSHIP OF COMMON ELEMENTS AND PERCENT OF VOTE</u>
102 A	1,534.14	11.6340%
102 B	1,534.14	11.6340%
102 C	1,534.14	11.6340%
102 D	1,534.14	11.6340%
104 E	880.96	6.6807%
104 F	880.96	6.6807%
104 G	880.96	6.6807%
104 H	880.96	6.6807%
106 I	881.57	6.6853%
106 J	881.57	6.6853%
106 K	881.57	6.6853%
106 L	881.57	<u>6.6853%</u>
		100%
Total Units - 12	Total Square Footage 13,186.68	