

Bylaws

Prospector's Point
Condominium Association, Inc.

PROSPECTOR'S POINT CONDOMINIUM

ASSOCIATION, INC.

JAN 22 1986

BYLAWS

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CORPORATION AND
FRANCHISE TAX DEPTS.

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BYLAWS
OF
PROSPECTOR'S POINT CONDOMINIUM
ASSOCIATION, INC.

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CORPORATION AND
FRANCHISE TAX DEPTS.

ARTICLE I
Plan of Unit Ownership

Section 1. Applicability. These Bylaws provide for the government of the Condominium pursuant to the requirements of Section 47-7C-6 of the New Mexico Condominium Act ("the Act"). The Property, located in Bernalillo County, New Mexico, and more particularly described in the Declaration, has been submitted to the provisions of the Act by recordation simultaneously herewith of the Declaration in the office of the Bernalillo County Clerk.

Section 2. Compliance. Pursuant to the provisions of Section 47-7C-2 of the Act, every Unit Owner and all those entitled to occupy a Unit shall comply with these Bylaws.

Section 3. Office. The office of the Condominium, the Association, and the Board of Directors shall be located at the Property or at such other place as may be designated from time to time by the Board of Directors.

Section 4. Definitions. Capitalized terms used herein without definition shall have the meanings specified for such terms in the Declaration creating this Condominium or, if not defined therein, the meanings specified for such terms in Section 47-7A-3 of the New Mexico Condominium Act.

ARTICLE II

Association

Section 1. Composition. The Association shall be a New Mexico corporation-not-for-profit. The Association shall have the responsibility of administering the Condominium, establishing the means and methods of collecting assessments and charges, arranging for the management of the Condominium and performing all of the other acts that may be required of or permitted to be performed by the Association, the Act and the Declaration. Except as to those matters which the Act specifically requires to be performed by the vote of the Association, the foregoing responsibilities shall be performed by the Board of Directors or Managing Agent as more particularly set forth in Article III of these Bylaws.

Section 2. Annual Meetings. The annual meetings of the Association shall be held on the 15th day of October of each year but not later than

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seventy-five days before the beginning of the next fiscal year. At such annual meetings the Board of Directors shall be elected by ballot of the Unit Owners in accordance with the requirements of Section 4 of Article III of these Bylaws and subject to the provisions of the Declaration.

Section 3. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Unit Owners as may be designated by the Board of Directors.

Section 4. Special Meetings. (a) The President shall call a special meeting of the Association if so directed by resolution of the Board of Directors or upon a petition signed and presented to the Secretary by Unit Owners of not less than twenty percent (20%) of the votes in the Association. The notice of any special meeting shall state the time, place and purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

(b) Upon the termination of Declarant's control of the Association a special meeting of the Association shall be held at which all of the members of the Board of Directors designated by the Declarant shall resign, and the Unit Owners, including the Declarant, if the Declarant owns one or more Units, shall thereupon elect successor members of the Board of Directors to act in the place and stead of those resigning.

Section 5. Notice of Meetings. The Secretary shall mail to each Unit Owner a notice of each meeting of the Unit Owners at least ten (10) but not more than sixty (60) days prior to such meeting, stating the time, place and purpose thereof. The mailing of a notice of meeting in the manner provided in this Section and Section 1 of Article XI of the Bylaws shall be considered service of notice.

Section 6. Adjournment of Meetings. If at any meeting of the Association a quorum is not present, Unit Owners of a majority of the Percentage Interests who are present at such meeting in person or by proxy may adjourn the meeting to a time not less than forty-eight (48) hours after the time of the original meeting was called.

Section 7. Order of Business. The order of business of all meetings of the Association shall be as follows:

- (a) Roll Call;
- (b) Proof of notice of meetings;
- (c) Reading of minutes of preceding meeting;
- (d) Reports of officers;
- (e) Report of Board of Directors;
- (f) Reports of committees;
- (g) Election or appointment of inspectors of election
(when so required);
- (h) Election of members of the Board of Directors
(when so required);
- (i) Unfinished business
- (j) New business.

Section 8. Title to Units. Title to a Unit may be taken in the name of one or more persons, in any manner permitted by law. The Association may acquire, hold and transfer full legal title to one or more Units in the Condominium in its own name.

Section 9. Voting. Each Unit Owner shall be entitled to one vote. Where the ownership of a Unit is in more than one person, the person who shall be entitled to cast the vote of such Unit shall be the person named in a certificate executed by all of the Owners of such Unit and filed with the Secretary or, in the absence of such named person from the meeting, the person who shall be entitled to cast the vote of such Unit shall be the person owning such Unit who is present. If more than one person owning such Unit is present then such vote shall be cast only in accordance with the agreement of a majority of them pursuant to Section 47-7C-10 of the Act. Such certificate shall be valid until revoked by a subsequent certificate similarly executed. Except where a greater number is required by the Act, the Declaration or these Bylaws, the owners of more than fifty (50%) percent of the votes in the Condominium voting in person or by proxy at one time at a duly convened meeting at which a quorum is present ("Majority of the Unit Owners") is required to adopt decisions at any meeting of the Association. If the declarant owns or holds title to one or more Units, the Declarant shall have the right at any meeting of the Association to cast the votes to which such Unit or Units are entitled. No Unit Owner may vote at any meeting of the Association or be elected to or serve on the Board of Directors if the Association has perfected a lien against his Unit and the amount necessary to release such lien has not been paid at the time of such meeting or election.

Section 10. Proxies. A vote may be cast in person or by proxy. Such proxy may be granted by any Unit Owner if favor of only another Unit Owner, a Mortgagee or the Declarant. Proxies shall be duly executed in writing, shall be valid only for the particular meeting designated therein and must be filed with the Secretary before the appointed time of the meeting. Such proxy shall be deemed revoked only upon actual receipt by the person presiding over the meeting of notice of revocation from any of the persons owning such Unit. No proxy shall in any event be valid for a period in excess of one hundred (100) days after the execution thereof.

Section 11. Quorum. Except as otherwise provided in these Bylaws, the presence in person or by proxy of Unit Owners of fifty percent (50%) or more of the votes in the Association shall constitute a quorum at all meetings of the Association.

Section 12. Conduct of Meetings. The President shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meeting and record of all transactions occurring thereat. The President may appoint a person to serve as parliamentarian at any meeting of the Association. The then current edition of Robert's Rules of Order shall govern the conduct of all meetings of the Association when not in conflict with the Declaration, these Bylaws or the Act. All votes shall be tallied by tellers appointed by the President.

ARTICLE III

Board of Directors

Section 1. Number and Qualification. The affairs of the Association shall be governed by a Board of Directors. During the period of Declarant control the Board of Directors shall consist of such persons as may be designated by the Declarant. Thereafter, the Board of Directors shall be composed of three (3) persons, all of whom shall be Unit Owners or spouses of Unit Owners, Mortgagees (or designees of Mortgagees) or designees of the Declarant.

Section 2. Powers and Duties. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by the Condominium Act, the Declaration or by these Bylaws required to be exercised and done by the Unit Owners. The Board of Directors shall have the power from time to time to adopt any Rules and Regulations deemed necessary for the benefit and enjoyment of the Condominium; provided, however, that such Rules and Regulations shall not be in conflict with the Act, the Declaration or these Bylaws. The Board of Directors shall delegate to one of its members, or to a person employed for such purpose, the authority to act on behalf of the Board of Directors on such matters relating to the duties of the Managing Agent (as defined in Section 3 of this Article), if any, which may arise between meetings of the Board of Directors as the Board of Directors deems appropriate. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall on behalf of the Association:

(a) Prepare an annual budget, in which there shall be established the assessments of each Unit Owner for the Common Expense.

(b) Make assessments against Unit Owners to defray the costs and expenses of the Condominium, establish the means and methods of collecting such assessments from the Unit Owners; and establish the period of the installment payment of the annual assessment for Common Expenses.

(c) Provide for the operation, care, upkeep and maintenance of all of the Property and services of the condominium.

(d) Designate, hire and dismiss the personnel necessary for the maintenance, operation, repair and replacement of the Common Elements and provide services for the Property and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties, which supplies and equipment shall be deemed part of the Property.

(e) Collect the assessments against the Unit Owners, deposit the proceeds thereof in bank depositories designated by the Board of Directors and use the proceeds to carry out the administration of the Property.

(f) Make and amend the Rules and Regulations.

(g) Open bank accounts on behalf of the Association and designate the signatories thereon.

(h) Make, or contract for the making of, repairs, additions and improvements to or alteration of the Property, and repairs to and restoration of the Property, in accordance with the Act, the Declaration and these Bylaws, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings.

(i) Enforce by legal means the provisions of the Act, the Declaration, these Bylaws and the Rules and Regulations and act on behalf of the Unit Owners with respect to all matters arising out of any eminent domain proceeding.

(j) Obtain and carry insurance against casualties and liabilities, as provided in Article VI of these Bylaws, pay the premiums therefor and adjust and settle any claims thereunder.

(k) Pay the cost of all authorized services rendered to the Association and not billed to Unit Owners of individual Units or otherwise provided for in Article V, Sections 1 and 2 of these Bylaws.

(l) Keep books with detailed accounts in chronological order of the receipts and expenditures affecting the Property, and the administration of the Condominium, specifying the expenses of maintenance and repair of the Common Elements and any other expenses incurred. Such books and vouchers accrediting the entries thereupon shall be available for examination by the Unit Owners, their duly authorized agents or attorneys, during general business hours on working days at the time and in the manner set and announced by the Board of Directors for the general knowledge of the Unit Owners. All books and records shall be kept in accordance with good and accepted accounting practices, and the same shall be audited at least once each year by an independent accountant retained by the Board of Directors who shall not be a resident of the Condominium or a Unit Owner. The cost of such audit shall be a Common Expense.

(m) Notify a Mortgagee of any default hereunder by the Unit Owner of the Unit subject to such Mortgage, in the event such default continues for a period exceeding sixty (60) days.

(n) Borrow money on behalf of the Condominium when required in connection with any one instance relating to the operation, care, upkeep, and maintenance of the Common Elements, provided, however, that the consent of at least thirty (30%) percent of all Unit Owners, obtained at a meeting duly called and held for such purpose in accordance with the provisions of these Bylaws, shall be required to borrow any sum in excess of Ten Thousand Dollars (\$10,000.00). If any sum borrowed by the Board of Directors on behalf of the Condominium pursuant to the authority contained in this paragraph (n) is not repaid by the Association, a Unit Owner who pays to the creditor such proportion thereof as his Common Expense Interest bears to the total Common Expense Interests in the Condominium shall be entitled to obtain from the creditor a release of any judgment or other lien which such creditor shall have filed or shall have the right to file against such Unit Owner's Unit.

(o) Acquire, hold and dispose of Units and mortgage the same if such expenditures and hypothecations are included in the budget adopted by the Association.

(p) In its sole discretion, designate from time to time certain Common Elements as "Reserved Common Elements" and impose such restrictions and conditions on the use thereof as the Board of Directors deem appropriate.

(q) Furnish the statement required by Section 47-7D-9 of the Act, within ten (10) working days after the receipt of a written request therefor from any Unit Owner substantially in the form set forth on Exhibit A to these Bylaws and designated "Certificate".

(r) Do such other things and acts not inconsistent with the Act, the Declaration or these Bylaws which the Board of Directors may be authorized to do by a resolution of the Association.

Section 3. Managing Agent. The Board of Directors may employ for the Condominium a "Managing Agent" at a compensation established by the Board of Directors.

(a) Requirements. The Managing Agent shall be a bona fide business enterprise, unaffiliated with the Declarant, which manages common interest residential communities. Such firm shall have a minimum of five (5) years experience in real estate community management. The Managing Agent must be able to advise the Board of Directors regarding the administrative operation of the Condominium and shall employ personnel expert in the areas of condominium insurance, accounting, labor relations and condominium regulation.

(b) Duties. The Managing Agent shall perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate to the Managing Agent all of the powers granted to the Board of Directors by these Bylaws other than the powers set forth in paragraphs (b), (f), (g), (n), (o) and (p) of Section 2 of this Article III. The Managing Agent shall perform the obligations, duties and services relating to management of the property, the rights of Mortgagees and the maintenance of reserve funds in compliance with the provisions of these Bylaws.

(c) Standards. The Board of Directors shall impose appropriate standards of performance upon the Managing Agent. Unless the Managing Agent is instructed otherwise by the Board of Directors,

(1) the cash method of accounting shall be employed;

(2) two (2) or more persons shall be responsible for handling cash to maintain adequate financing control procedures;

(3) cash accounts of the Association shall not be commingled with any other accounts;

(4) no remuneration shall be accepted by the Managing Agent from vendors, independent contractors or others providing goods or services to the Association whether in the form of commissions, finders fees, service fees or otherwise; any discounts received shall benefit the Association;

(5) any financial or other interest which the Managing

Agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors; and

(6) a monthly financial report shall be prepared for the Association disclosing:

(i) all income and disbursement activity for the preceding month;

(ii) the status of all accounts in an "actual" versus "projected" (budget) format; and

(iii) any actual or pending obligations which are in excess of budgeted amounts by an amount exceeding the operating reserves or five (5%) percent of a major budget category (as distinct from a specific line item in an expanded chart of accounts).

(d) Limitations. Subject to the provisions of Section 47-7C-5 of the Act, during the period when persons designated by the Declarant constitute the Board of Directors, the Board of Directors may employ a Managing Agent for a term not to exceed three (3) years. Nor shall the Association employ a new Managing Agent without thirty (30) days' prior written notice to and approval by, all Mortgagees. Any contract with the Managing Agent must provide that it may be terminated with cause on no more than ninety (90) days written notice and the term of any such contract may not exceed three (3) years.

Section 4. Election and Term of Office.

(a) At the first annual meeting of the Association the term of office of one member of the Board of Directors shall be fixed at three (3) years, the term of office of one member of the Board of Directors shall be fixed at two (2) years, and the term of office of one member of the Board of Directors shall be fixed at one (1) year. At the expiration of the initial term of office of each member of the initial Board of Directors, a successor shall be elected to serve for a term of three (3) years. The members of the Board of Directors shall hold office until their respective successors shall have been elected by the Association.

(b) Persons qualified to be members of the Board of Directors may be nominated for election only as follows:

(1) Any Unit Owner may submit to the Secretary at least thirty (30) days before the meeting at which the election is to be held a nominating petition signed by Unit Owners owning at least six (6%) percent of all Units a statement that the person nominated is willing to serve on the Board of Directors and a biographical sketch of the nominee. The Secretary shall mail or hand-deliver the submitted items to every Unit Owner along with the notice of such meetings; or

(2) Nominations may be submitted from the floor at the meeting at which the election is held for each vacancy of the Board of Directors.

Section 5. Removal or Resignation of Members of the Board of

Directors. Except with respect to directors designated by Declarant, at any regular or special meeting duly called, any one or more of the members of the Board of Directors may be removed with or without cause by a Majority of the Unit Owners and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the Unit Owners shall be given at least seven (7) days' notice of the time, place and purpose of the meeting and shall be given an opportunity to be heard at the meeting. A member of the Board of Directors may resign at any time and shall be deemed to have resigned upon disposition of his Unit.

Section 6. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a director by a vote of the Association shall be filled by a vote of a majority of the remaining directors at a special meeting of the Board of Directors held for such purpose promptly after the occurrence of any such vacancy, even though the directors present at such meeting may constitute less than a quorum. Each person so elected shall be a member of the Board of Directors for the remainder of the term of the member being replaced and until a successor shall be elected at the next annual meeting of the Association. Notwithstanding anything to the contrary in this Section or in the preceding Section 5, so long as the Declarant owns ten percent (10%) or more of the aggregate Percentage Interests, (but in no event after the expiration of Declarant's control of the Association) the Declarant shall designate the successor to any resigned or removed member previously designated by the Declarant.

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

Section 8. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but such meetings shall be held at least one every month during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each director, by mail or telegraph, at least five (5) business days prior to the day of such meeting.

Section 9. Special Meetings. Special meetings of the Board of Directors may be called by the President on two (2) business days notice to each director, given by mail or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) directors.

Section 10. Waiver of Notice. Any director may at any time, in writing, waive notice of any meeting of the Board of Directors, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board of Directors shall constitute

a waiver of notice by him of the time, place and purpose of such meeting. If all directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

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

Section 12. Fidelity Bonds. As required by Article VI Section 4 (a) hereof, there shall be obtained fidelity bonds in an amount not less than Ten Thousand Dollars (\$10,000.00) or in such form and such greater amounts as may be required by the Mortgagees for all officers, directors and employees of the Association, including without limitations, the Managing Agent handling or responsible for Condominium funds. The premiums on such bonds shall constitute a Common Expense.

Section 13. Compensation. No director shall receive any compensation from the Condominium for acting as such.

Section 14. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors and the Secretary shall keep a minute book of the Board of Directors recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings. The then current edition of Robert's Rules of Order shall govern the conduct of the meetings of the Board of Directors when not in conflict with the Declaration, these Bylaws or the Act.

Section 15. Action Without Meeting. Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Board of Directors shall individually or collectively consent in writing to such action. Any such written consent shall be filed with the minutes of the proceedings of the Board of Directors.

Section 16. Liability of the Board of Directors, Officers, Unit Owners and Association.

(a) The officers and members of the Board of Directors shall not be liable to the Association for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The Association shall indemnify and hold harmless each of the officers and directors from and against all contractual liability of others arising out of contract made by the officers or the Board of Directors on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Act, the Declaration or these Bylaws. Officers and members of the Board of Directors shall have no personal liability with respect to any contract made by them on

behalf of the Association. The liability of any Unit Owner arising out of any contract made by the officers or Board of Directors, or out of the aforesaid indemnity in favor of the members of the Board of Directors or officers, or for damages as a result of injuries arising in connection with the Common Elements solely by virtue of his ownership of a Percentage Interest therein or for liabilities incurred by the Association, shall be limited to the total liability multiplied by his Percentage Interest. Every agreement made by the officers, the Board of Directors or the Managing Agent on behalf of the Association shall, if obtainable, provide that the officers, the members of the Board of Directors or the Managing Agent, as the case may be, are acting only as agents for the Association and shall have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to the total liability thereunder multiplied by his Percentage Interest.

(b) The Association shall not be liable for any failure of water supply or other services to be obtained by the Association or paid for as a Common Expense, or the injury or damage to Person or property caused by the elements or by the Unit Owner of any Unit, or any other person, or resulting from electricity, water, snow or ice which may leak or flow from any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment. The Association shall not be liable to any Unit Owner for loss or damage, by theft or otherwise, of articles which may be stored upon any of the Common Elements. No diminution or abatement of any assessments, as herein elsewhere provided, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Elements or from any action taken by the Association to comply with any law, ordinance or with the order or directive of any municipal or other governmental authority.

Section 17. Common or Interested Directors. Each member of the Board of Directors shall exercise his powers and duties in good faith and with a view to the interests of the Condominium. No contract or other transaction between the Association and any of its directors, or between the Association and any corporation, firm or association (including the Declarant) in which any of the directors of the Association are directors or officers or are pecuniarily or otherwise interested is either void or voidable because any such director is present at the meeting of the Board of Directors or any committee thereof which authorizes or approves the contract or transaction, or because his vote is counted for such purpose, if any of the conditions specified in any of the following subparagraphs exists:

(a) The fact of the common directorate or interest is disclosed or known to the Board of Directors or a majority thereof or noted in the minutes, and the Board of Directors authorizes, approves or ratifies such contract or transaction in good faith by a vote sufficient for the purpose; or

(b) The fact of the common directorate or interest is disclosed or known to at least a majority of the Unit Owners, and the Unit Owners approve or ratify the contract or transaction in good faith by a vote sufficient for the purpose; or

(c) The contract or transaction is commercially reasonable

to the Association at the time it is authorized, ratified, approved or executed. Any common or interested directors may be counted in determining the presence of a quorum of any meeting of the Board of Directors or committee thereof which authorizes, approves or ratifies any contract or transaction, and may vote thereat to authorize any contract or transaction with like force and effect as if such director were not such director or officer of such Association or not so interested.

Section 18. Covenants Committee. The Board of Directors may establish a Covenants Committee, consisting of three (3) members appointed by the Board of Directors, each to serve for a term of two (2) years, in order to assure that the Condominium shall always be maintained in a manner:

- (a) providing for visual harmony and soundness or repair;
- (b) avoiding activities deleterious to the esthetic or property values of the Condominium;
- (c) furthering the comfort of the Unit Owners, their guests and tenants; and
- (d) promoting the general welfare of the Condominium community.

(1) Powers. The Covenants Committee shall regulate the external design, appearance, use and maintenance of the Common Elements. The Covenants Committee shall have the power to issue a cease and desist request to a Unit Owner, his guests, invitees, or lessees whose actions are inconsistent with the provisions of the Act, the Declaration, the Bylaws, the Rules and Regulations or resolutions of the Board of Directors (upon petition of any Unit Owner or upon its own motion). Any action, ruling or decision of the Covenants Committee may be appealed to the Board of Directors by any party deemed by the Board of Directors to have standing as an aggrieved party and a vote of a quorum of the Board of Directors may modify or reverse any such action, ruling or decision.

(2) Authority. The Covenants Committee shall have such additional duties, power and authority as the Board of Directors may from time to time provide by resolution. The Board of Directors may relieve the Covenants Committee of any of its duties, powers and authority either generally or on a case by case basis by vote of a quorum thereof. The Covenants Committee shall carry out its duties and exercise its powers and authority in the manner provided for in the Rules and Regulations or by resolution of the Board of Directors.

ARTICLE IV

Officers

Section 1. Designation. The principal officers of the Association shall be the President, the Vice President, the Secretary and the Treasurer, all of whom shall be elected by the Board of Directors. The Board of

Directors may appoint an assistant Treasurer, an assistant Secretary and such other officers as in its judgment may be necessary. The President shall be a member of the Board of Directors. Any other officers may, but need not, be Unit Owners or members of the Board of Directors. All officers shall attend meetings of the Board of Directors.

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

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

Section 4. President. The President shall be the chief executive officer of the Association; preside at all meetings of the Association and of the Board of Directors; and have all of the general powers and duties which are incident to the office of President of the corporation including without limitation the power to appoint committees from among the Unit Owners from time to time as the President may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association.

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

Section 6. Secretary. The Secretary shall keep the minutes of all meetings of the Association and of the Board of Directors; have charge of such books and papers as the Board of Directors may direct; maintain a register setting forth the place to which all notices to Unit Owners and Mortgagees hereunder shall be delivered; and, in general, perform all the duties incident to the office of Secretary of the corporation.

Section 7. Treasurer. The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial data; and be responsible for the deposit of all monies and other valuable effects in the name of the Board of Directors, the Association or the Managing Agent, in such depositories as may from time to time be designated by the Board of Directors; and, in general, perform all the duties incident to the office of Treasurer of the corporation.

Section 8. Execution of Documents. All agreements, contracts, deeds, leases, checks and other instruments of the Association for expenditures or obligations in excess of Two Thousand Dollars (\$2,000.00) shall be

executed by any two persons designated by the Board of Directors.

Section 9. Compensation of Officers. No officer who is also a director shall receive any compensation from the Association for acting as such officer.

ARTICLE V

Operation of the Property

Section 1. Determination of Common Expenses and Assessments Against Unit Owners.

(a) Fiscal Year. The fiscal year of the Association shall be the calendar year unless otherwise determined by the Board of Directors.

(b) Preparation and Approval of Budget.

(1) On or before the 30th day of September of each year the Board of Directors shall adopt a budget for the Association containing an estimate of the total amount considered necessary to pay the cost of maintenance, management, operation, repair and replacement of the Common Elements and those parts of the Units as to which it is the responsibility of the Board of Directors to maintain, repair and replace, and the cost of wages, materials, insurance premiums, services, supplies and other expenses that may be declared to be Common Expenses by the Act, the Declaration, these Bylaws or a resolution of the Association and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Property and the rendering to the Unit Owners of all related services.

(2) Such budget shall also include such reasonable amounts as the Board of Directors considers necessary to provide working capital, general operating reserve and reserves for contingencies and replacements. Within thirty (30) days of the adoption of the proposed budget, the Board of Directors shall send to each Unit Owner a copy of the budget in a reasonably itemized form which sets forth the amount of the Common Expenses and any special assessment payable by each Unit Owner. Such budget shall constitute the basis for determining each Unit Owner's assessment for the Common Expenses of the Association, if ratified pursuant to Section 47-7C-3 (c) of the Act.

(3) Within sixty (60) days after the creation of Units on any additional land by the recordation of an amendment to the Declaration submitting such Units to the Condominium, the Board of Directors shall send to each Unit Owner a copy of the budget revised to reflect the proportionate liability of such Units for Common Expenses for the remainder of the fiscal year in which such Units were added to the Condominium. The amount of assessments attributable to each Unit shall thereafter be the amount specified in the adjusted budget, until a new budget shall have been adopted by the Board of Directors.

(c) Assessments and Payment of Common Expenses. Subject to the provisions of Section 1 (a) of Article IX hereof, the total amount

of the estimated funds required for the operation of the Property set forth in the budget adopted by the Board of Directors shall be assessed against each Unit Owner in proportion to his respective Percentage Interest and shall be a lien against each Unit Owner's Unit as provided in Article IX, Section 2 of these Bylaws. On or before the first day of each fiscal year, and the first day of each of the succeeding eleven (11) months in such fiscal year, each Unit Owner shall be obligated to pay to the Board of Directors or the Managing Agent (as determined by the Board of Directors), one twelfth (1/12) of such assessment. Within sixty (60) days after the end of each fiscal year, the Board of Directors shall supply to all Unit Owners and to each Mortgagee an itemized accounting of the Common Expenses for such fiscal year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the budget adopted by the Board of Directors for such fiscal year, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall, if the Board of Directors deem advisable, be credited according to each Unit Owner's Percentage Interest to the next monthly installments due from Unit Owners under the current fiscal year's budget, until exhausted. Any net shortage shall be assessed promptly against the Unit Owners in accordance with their Percentage Interest and shall be payable either: (1) in full with payment of the next monthly assessment due; or (2) in not more than three (3) equal monthly installments, as the Board of Directors may determine.

(d) Reserves. The Board of Directors shall build up and maintain reasonable reserves for working capital, operations, contingencies and replacements. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged first against such reserves. If the reserves are inadequate for any reason, including non-payment of any Unit Owner's assessment, the Board of Directors may at any time levy a further assessment, which shall be assessed against the Unit Owners according to their respective Percentage Interest, and which may be payable in a lump sum or in installments as the Board of Directors may determine. The Board of Directors shall serve notice of any such further assessment of all Unit Owners by a statement in writing giving the amount and reasons therefor, and such further assessments shall, unless otherwise specified in the notice, become effective with the next monthly payment which is due more than ten (10) days after the delivery of such notice of further assessments. All Unit Owners shall be obligated to pay the adjusted monthly amount or, if such further assessment is not payable in installments, such assessments shall be a lien as of the effective date as set forth in the preceding Paragraph (c).

(e) Initial Capital Payment. (1) Upon taking office, the first Board of Directors elected or designated pursuant to these Bylaws shall determine the budget, as defined in this Section, for the period commencing sixty (60) days after such election and ending on the last day of the fiscal year in which such election or designation occurs. Assessments shall be levied and become a lien against the Unit, during such period as provided in Paragraph (c) of this Section.

(2) The Declarant, as the agent of the Board of Directors, will collect from each initial purchaser at the time of settlement an "initial capital payment" equivalent to the established monthly assessment for Common Expenses for such purchaser's Unit for the month during which

settlement occurred and the next month. The declarant will deliver the funds so collected to the Board of Directors to provide the necessary working capital for the Association.

(f) Effect of Failure to Prepare or Adopt Budget. The failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay his allocable share of the Common Expenses as herein provided whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each Unit Owner shall continue to pay such monthly installment at the monthly rate established for the previous fiscal year until notice of the new monthly payment which is due shall have been delivered.

(g) Accounts. All sums collected by the Board of Directors with respect to assessments against the Unit Owners or from any other source may be commingled into a single fund, but shall be held for each Unit Owner in accordance with his Percentage Interest.

Section 2. Payment of Common Expenses. Each Unit Owner shall pay the Common Expenses assessed by the Board of Directors pursuant to the provisions of Section 1 of this Article V. No Unit Owner may exempt himself from liability for his contribution toward Common Expenses by a waiver of the use of enjoyment of any of the Common Elements or by abandonment of his Unit. No Unit Owner shall be liable for the payment of any part of the Common Expenses assessed against his Unit subsequent to the date of recordation of a conveyance by him in fee of such Unit. Prior to or at the time of any such conveyance, all liens, unpaid charges and assessments shall be paid in full and discharged. The purchaser of a Unit shall be jointly and severally liable for his proportionate share of the Common Expenses up to the time of such recordation, without prejudice to the purchaser's right to recover from the selling Unit Owner amounts paid by the purchaser therefor; provided, however, any such purchaser shall be entitled to a statement setting forth the amount of the unpaid assessments against the selling Unit Owner within ten (10) working days following a written request therefor to the Board of Directors or Managing Agent and such purchaser shall not be liable for, nor shall the Unit be subject to a lien for, any unpaid assessments in excess of the amount therein set forth; and provided, further, that each Mortgagee who comes into possession of a Unit by virtue of foreclosure or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the Condominium Unit free of any claims for unpaid assessments or charges against such Unit which accrue prior to the time such Mortgagee comes into possession thereof, except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all Units including the mortgaged Unit.

Section 3. Collection of Assessments. The Board of Directors or Managing Agent, at the request of the Board of Directors, shall take prompt action to collect any assessments for Common Expenses due from any Unit Owner which remain unpaid for more than fifteen (15) days from the due date for payment thereof. Any assessment, or installment thereof, not paid within five (5) days after due shall accrue a late charge in the amount of two percent (2%) of the overdue assessment or installment for each month or portion thereof beyond the due date that such assessment remains unpaid. Assessments shall begin with the conveyance of the 1st Unit to a Unit Owner.

Section 4. Statement of Common Expenses. The Board of Directors shall promptly provide any Unit Owner, contract purchaser or Mortgagee so requesting the same in writing with a written statement of all unpaid assessments for the Common Expenses due from such Unit Owner. The Board of Directors may impose a reasonable charge for the preparation to the extent permitted by the Act.

Section 5. Maintenance, Repair, Replacement and Other Expenses.

(a) **By the Board of Directors.** The Board of Directors shall be responsible for the maintenance, repair and replacement (unless, if in the opinion of the Board of Directors such expense was necessitated by the negligence, misuse or neglect of an Unit Owner) of all of the Common Elements (including the Limited Common Elements) as defined herein or in the Declaration, whether located inside or outside of the Units, the cost of which shall be charged to all Unit Owners as a Common Expense, provided, however, that each Unit Owner shall perform normal maintenance on the Limited Common Elements appurtenant to his Unit and any portion of the remaining Common Elements which the Board of Directors pursuant to the Rules and Regulations has given him permission to utilize, including without limitation the items enumerated in subsection (b) hereof.

(b) **By the Unit Owner.**

(1) Each Unit Owner shall keep his Unit and its equipment, appliances and appurtenances in good order, condition and repair and in a clean and sanitary condition, and shall do all redecorating, painting and varnishing which may at any time be necessary to maintain the good appearance and condition of his Unit. In addition, each Unit Owner shall be responsible for all damage to any other Units or to the Common Elements resulting from his failure to make any of the repairs required by this Section. Each Unit Owner shall perform his responsibility in such manner as shall not unreasonably disturb or interfere with the other Unit Owners. Each Unit Owner shall promptly report to the Board of Directors or the Managing Agent any defect or need for repairs for which the Board of Directors is responsible.

(2) The Unit Owner of any Unit to which a patio, driveway or deck is appurtenant shall perform the normal maintenance for such patio, driveway or deck including keeping it in a clean and sanitary condition, free and clear of snow, ice and any accumulation of water and shall also make all repairs thereto caused or permitted by his negligence, misuse or neglect. All structural repair or replacement shall be made by the Board of Directors as a Common Expense, as provided in subsection (a) above.

(3) Any Unit Owner permitted by the Board of Director to use a specific portion of the Common Elements for storage is responsible for the maintenance and care of such portion and shall use such poriton in a safe and sanitary manner.

(c) **Manner of Repair and Replacement.** All repairs and replacements shall be substantially similar to the original construction and installation and shall be of first-class quality. The method of approving payment vouchers for all repairs and replacements shall be determined by the Board of Directors.

Section 6. Additions, Alterations or Improvements by the Board of Directors. Except during the period of Declarant control, whenever in the judgment of the Board of Directors improvements costing in excess of Ten Thousand Dollars (\$10,000.00) during any period of six (6) consecutive months, the making of such additions, alterations or improvements shall be approved by a majority of the Unit Owners, and the Board of Directors shall proceed with such additions, alterations or improvements and shall assess all Unit Owners for the Cost thereof as a Common Expense. Any additions, alterations or improvements costing less than Ten Thousand Dollars (\$10,000.00) during any period of six (6) consecutive months may be made by the Board of Directors without approval of the Unit Owners and the cost thereof shall constitute a Common Expense. Notwithstanding the foregoing, if, in the opinion of the Board of Directors, such additions, alterations or improvements are exclusively or substantially exclusively for the benefit of the Unit Owner or Unit Owners requesting the same, such requesting Unit Owners shall be assessed therefor in such proportion as they jointly approve or, if they are unable to agree thereon, in such proportions as may be determined by the Board of Directors.

Section 7. Additions, Alterations or Improvements by Unit Owners. No Unit Owner shall make any structural addition, alteration or improvement in or to his unit without the prior written consent of the Board of Directors. No Unit Owner shall paint, or alter the exterior of his Unit, including the doors and windows, nor shall any Unit Owner paint or alter the exterior of any building, without the prior written consent of the Board of Directors. The Board of Directors shall be obligated to answer any written request by a Unit Owner for approval of a proposed structural addition, alteration or improvement in such Unit Owner's Unit within thirty (30) days after such request, and failure to do so within the stipulated time shall constitute a consent to the alteration or improvement. If any application to any governmental authority for a permit to make any such structural addition, alteration or improvement in or to any Unit requires execution by the Association, and provided consent has been given by the Board of Directors, then the application shall be executed on behalf of the Association by the Board of Directors only, without, however, incurring any liability on the part of the Board of Directors or any of them to any contractor, subcontractor or materialmen on account of such addition, alteration or improvement, or to any person having claim for injury or damage to property arising therefrom. The provisions of this Section 7 shall not apply to Units owned by the Declarant until deeds of conveyance of such Units have been recorded; provided, however, that Declarant's construction of alterations shall be architecturally compatible with the existing Units. The Declarant shall have the right to make such alterations without the consent of the Board of Directors and the Board of Directors shall execute any such application required.

Section 8. Restrictions on Use of Units; Rules and Regulations.

(a) Each Unit and the Common Elements shall be occupied and used as follows:

(1) No Unit shall be used for other than residential purposes. Garages may not be converted into living spaces. The Board of Directors may permit reasonable, temporary non-residential uses from time to time. Nothing in these Bylaws shall be construed to prohibit the

Declarant from using any Unit owned by Declarant for promotional, marketing or display purposes or from using any appropriate portion of the Common Elements for closing of sales of Units.

(2) Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance for the Property or any part thereof applicable for residential use without the prior written consent of the Board of Directors. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Elements which will result in the cancellation of insurance on the Property or any part thereof or which would be in violation of any law, regulation or administrative ruling. No waste will be committed in the Common Elements.

(3) No immoral, improper, offensive or unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental agencies having jurisdiction thereof shall be observed. All laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof relating to any portion of the Property shall be complied with, by and at the sole expense of the Unit Owner or the Board of Directors, whichever shall have the obligation to maintain or repair such portion of the Property, and, if the latter, then the cost of such compliance shall be a Common Expense.

(4) No Unit Owner shall obstruct any of the Common Elements nor shall any Unit Owner store anything upon any of the Common Elements (except those areas designated for such storage by the Board of Directors) without the approval of the Board of Directors. Vehicular parking upon the Common Elements may be regulated or assigned by the Board of Directors. Nothing shall be altered or constructed on or removed from the Common Elements except upon the prior written consent of the Board of Directors or the Covenants Committee, as appropriate.

(5) The Common Elements shall be used only for the furnishing of the services and facilities for which the same are reasonably suited and which are incident to the use and occupancy of the units.

(6) No Unit shall be rented for less than a thirty day term. No Unit Owner shall lease a Unit other than on a written form of lease requiring the lessee to comply with the Act, the Declaration, the Rules and Regulations and these Bylaws, and providing that failure to comply constitutes a default under the lease. The Board of Directors may provide a suggested standard form lease for use by Unit Owners. Each Unit Owner shall promptly, following the execution of any such lease, forward a conformed copy thereof to the Board of Directors. The foregoing provisions of this subparagraph shall not apply to the Declarant, or to a Mortgagee in possession of a Unit as a result of a foreclosure or other judicial sale or as a result of any proceeding in lieu of foreclosure, during the period of such Mortgagee's possession.

(7) Trailers, campers, recreational vehicles or boats may be parked on the Property only in parking areas designated exclusively for such purposes by the Board of Directors. No junk or derelict vehicle or other vehicle on which current registration plates are not displayed shall be kept upon any of the Common Elements.

(8) The maintenance, keeping, boarding and/or raising

of animals, livestock, poultry or reptiles of any kind, regardless of number shall be and is prohibited within any Unit or upon the Common Elements, except that the keeping of small, orderly domestic pets (e.g., dogs, cats or caged birds) not to exceed one per Unit without the approval of the Board of Directors, is permitted subject to the Rules and Regulations adopted by the Board of Directors; provided, however, that such pets are not kept or maintained for commercial purposes or for breeding and provided further, that any such pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the Property upon ten (10) days written notice from the Board of Directors. Such pets shall not be permitted upon the Common Elements unless accompanied by an adult and unless carried or leashed. Any Unit Owner who keeps and maintains any pet upon any portion of the Property shall be deemed to have agreed to indemnify and hold the Condominium, each Unit Owner and the Declarant free and harmless for any loss, claim or liability of any kind of character whatever arising by reason of keeping or maintaining such pet within the Condominium. All pets shall be registered with the Board of Directors and shall otherwise be registered and inoculated as required by law.

(9) Except for such signs as may be posted by the Declarant for promotional or marketing purposes, no signs of any character shall be erected, posted or displayed upon, in or from any Unit or Common Element without the prior written approval of the Board of Directors. The provisions of this subparagraph shall not be applicable to the holder of any first mortgage which comes into possession of any Unit by reason of any remedies provided for in the mortgage, foreclosure of any mortgage or any deed of trust or other proceeding in lieu of foreclosure.

(b). Each Unit and the Common Elements shall be occupied and used in compliance with the Rules and Regulations which may be promulgated and amended by the Board of Directors. Copies of the Rules and Regulations shall be furnished by the Board of Directors to each Unit Owner. Amendments to the Rules and Regulations shall be conspicuously posted to the time when the same shall become effective and copies thereof shall be furnished to each Unit Owner upon request.

Section 9. Right of Access. By acceptance of his deed of conveyance, each Unit Owner thereby grants a right of access to his Unit, as provided by Section 47-7C-7 of the Act and Paragraph 8 of the Declaration, to the Board of Directors or the Managing Agent, or any other person authorized by the Board of Directors or the Managing Agent, or any group of the foregoing, for the purpose of enabling the exercise and discharge of their respective power and responsibilities, including without limitation making inspections, correcting any condition originating in his Unit and threatening another Unit or the Common Elements, performing installations, alteration or repairs to the mechanical or electrical services to the Common Elements in his Unit or elsewhere in the Property or to correct any condition which violates any mortgage; provided, however, that requests for entry are made in advance and that such entry is at a time reasonably convenient to the Unit Owner. In case of emergency, such right of entry shall be immediate, whether the Unit Owner is present at the time or not.

Section 10. Utility Charges. The cost of water, sewer and refuse serving the Condominium shall be a Common Expense. The Association has the authority to contract for water and sanitary sewer services on behalf of the Unit Owners and to incur liability for payment of the charges for such services as common expense.

Section 11. Parking spaces. All parking spaces except garages and their respective driveways designated as such on the Plats and Plans shall be used by the Unit Owners for self-service parking on a "first come, first served" basis, provided, however, that no Unit Owner shall park more than one (1) vehicle (owned or leased by such Unit Owner, a member of his family or a tenant residing in his Unit) on the Common Element parking spaces without the prior written consent of the Board of Directors. The cost of maintenance and repair of all parking areas shall be a Common Expense.

Section 12. Use of Common Elements. No Unit Owner shall place or cause or permit to be placed on or in the Common Elements (other than in the areas designated as storage areas) any furniture, packages or objects of any kind.

ARTICLE VI

Insurance

Section 1. Authority to Purchase. (a) Except as otherwise provided in Section 5 of this Article VI, all insurance policies relating to the Property shall be purchased by the Board of Directors. Neither the Board of Directors nor the Managing Agent nor the Declarant shall be liable for the failure to obtain any coverages required by this Article VI or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverages from reputable insurance companies, or if such coverages are so available only at a demonstrably unreasonable cost.

(b) Each such policy shall provide that:

(1) The insurer waives any right to claim by way of subrogation against the Declarant, the Association, the Board of Directors, the Managing Agent or the Unit Owners, and their respective agents, employees, guests and in the case of the Unit Owners, the members of their households;

(2) Such policy shall not be canceled, invalidated or suspended due to the conduct of any Unit Owner (including his invitees, agents and employees) or of any member, (acting within the scope of his authority for the Association) officer or employee of the Board of Directors or the Managing Agent without a prior demand in writing that the Board of Directors or the Managing Agent cure the defect and neither shall have so cured such defect within thirty (30) days after such demand.

(3) Such policy may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days' prior written notice to the Board of Directors and the Managing agent and, in the case of physical damage insurance, to all Mortgagees.

(c) The Declarant, so long as Declarant shall own any Unit, shall be protected by all such policies as a Unit Owner.

(d) All policies of insurance shall be written by reputable companies licensed to do business in the State of New Mexico. Physical damage policies shall be in form and substance acceptable to the Mortgagees.

Section 2. Physical Damage Insurance. (a) The Board of Directors shall obtain and maintain a blanket, "all-risk" form policy of fire insurance with extended coverage, vandalism, malicious mischief, windstorm, debris removal, cost of demolition and water damage endorsements, insuring the entire Property (including all of the Units and the appliances and bathroom and kitchen fixtures initially installed therein by the Declarant and the replacements thereto installed by the Declarant but not including furniture, wall coverings, furnishings or other personal property supplied or installed by Unit Owners), and covering the interests of the Association, the Board of Directors and all Unit Owners and their Mortgagees, as their interest may appear, (subject, however, to the loss payment and adjustment provisions in favor of the Board of Directors contained in Sections 6 and 7 of this Article VI), in an amount equal to one hundred percent (100%) of the then current replacement cost of the Property (exclusive of the land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation (such amount to be redetermined annually by the Board of Directors with the assistance of the insurance company affording such coverage).

(b) Such policy shall also provide:

(1) A waiver of any right of the insurer to repair, rebuild or replace any damage or destruction, if a decision is made pursuant to these Bylaws not to do so and, in such event, that the insurer shall pay on the basis of the agreed amount endorsement as though a total loss had occurred;

(2) The following endorsements (or equivalent): (i) "contingent liability from operation of building laws or codes;" (ii) "increased cost of construction" or "condominium replacement cost;" and (iii) "agreed amount" or elimination of co-insurance clause; and

(3) That any "no insurance" clause expressly exclude individual Unit Owners' policies from its operation so that the physical damage policy purchased by the Board of Directors shall be deemed primary coverage and any individual Unit Owners' policies shall be deemed excess coverage, and in no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder provide for or be brought into contribution with insurance purchased by individual Unit Owners or the Mortgagees unless otherwise required by law.

(c) A duplicate original of the policy of physical damage insurance, all renewals thereof, and any subpolicies or certificates and endorsements issued thereunder together with proof of payment of premiums shall be delivered by the insurer to any Mortgagee so requesting at least twenty (20) days prior to expiration of the then current policy. Prior to obtaining any policy of physical damage insurance or any renewal thereof the Board of Directors shall obtain an appraisal from an insurance company, or such other source as the Board of Directors may determine, of the current replacement cost of the Property (exclusive of the land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation, for the purpose of determining the amount of physical damage insurance to be secured pursuant to this Section 2. All Mortgagees shall be notified promptly of any event giving rise to a claim under such policy.

Section 3. Liability Insurance. The Board of Directors shall obtain and maintain comprehensive general liability (including libel, slander, false arrest and invasion of privacy coverage and errors and omissions coverage for directors) and property damage insurance in such limits as the Board of Directors may from time to time determine, insuring each member of the Board of Directors, the Managing Agent, each Unit Owner and the Declarant against any liability to the public or to the Unit Owners (and their invitees, agents and employees) arising out of, or incident to the ownership and/or use of the Common Elements. Such insurance shall be issued on a comprehensive liability basis and shall contain: (i) a cross liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to his action against another named insured; (ii) hired and non-owned vehicle coverage; (iii) host liquor liability coverage with respect to events sponsored by the Association; (iv) deletion of the normal products exclusion with respect to events sponsored by the Association; and (v) a "severability of interest" endorsement which shall preclude the insurer from denying liability to a Unit Owner because of negligent acts of the Association or of another Unit Owner. The Board of Directors shall review such limits once each year, but in no event shall such insurance be less than One Million Dollars (\$1,000,000) covering all claims for bodily injury or property damage arising out of one occurrence. Reasonable amounts of "umbrella" liability insurance in excess of the primary limits shall also be obtained.

Section 4. Other Insurance. The Board of Directors shall obtain and maintain:

(a) adequate fidelity coverage to protect against dishonest acts on the part of officers, directors, trustees and employees of the Association and all others who handle, or are responsible for handling, funds of the Association, including any Managing Agent. Such fidelity bonds shall: (1) name the Association as an obligee; (2) be written in an amount not less than one (1) times the estimated annual operation expenses of the Condominium, including reserves; and (3) contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression;

(b) if required by any governmental or quasi governmental agency including without limitation the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, flood insurance in accordance with the then applicable regulations of such agency;

(c) workmen's compensation insurance if and to the extent necessary to meet the requirements of law; and

(d) such other insurance as the Board of Directors may determine or as may be requested from time to time by a majority of the Unit Owners.

Section 5. Separate Insurance. Each Unit Owner shall have the right, at his own expense, to obtain insurance for his own Unit and for his own benefit and to obtain insurance coverage upon his personal property and for his personal liability as well as upon any improvements made by him to his Unit normally called "tenants improvements and betterments coverage;" provided, however, that no Unit Owner shall be entitled to exercise his right to acquire or maintain such insurance coverage so as to decrease the amount which the Board of Directors, on behalf of all Unit Owners,

may realize under any insurance policy maintained by the Board of Directors or to cause any insurance coverage maintained by the Board of Directors to be brought into contribution with insurance coverage obtained by a Unit Owner. All such policies shall contain waivers of subrogation. No Unit Owner shall obtain separate insurance policies except as provided in this Section 5.

Section 6. Proceeds. All physical damage insurance policies purchased by the Board of Directors shall be for the benefit of the Association, the Unit Owners, their Mortgagees and the Declarant, as their interests may appear. All such proceeds shall be paid to the Board of Directors to be applied pursuant to the terms of Article VII.

Section 7. Board of Directors as Agents. The Board of Directors is hereby irrevocably appointed the agent for each Unit Owner, each Mortgagee, other named insureds and their beneficiaries and any other holder of a lien or other interest in the Condominium or the Property to adjust and settle all claims arising under insurance policies purchased by the Board of Directors and to execute and deliver releases upon the payment of claims.

ARTICLE VII

Repair and Reconstruction After Fire or Other Casualty

Section 1. When Repair and Reconstruction are Required. Except as otherwise provided in Section 4 of this Article, in the event of damage to or destruction of all or any of the buildings as a result of fire or other casualty, the Board of Directors shall arrange for and supervise the prompt repair and restoration of the buildings (including any damaged Units, and the floor coverings, kitchen or bathroom fixtures and appliances initially installed therein by the Declarant, and replacement thereof installed by the Declarant, but not including any furniture, furnishings, fixtures, equipment or other personal property supplied or installed by the Unit Owners in the Units). Notwithstanding the foregoing, each Unit Owner shall have the right to supervise the redecorating of his own Unit.

Section 2. Procedure for Reconstruction and Repair.

(a) Cost Estimates. Immediately after a fire or other casualty causing damage to any building, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring such building (including any damaged Units and any floor coverings and kitchen and bathroom fixtures and appliances initially installed by Declarant, and the replacements thereof, but not including any other furniture, furnishings, fixtures or equipment installed by the Unit Owner in the Unit) to a condition as good as that existing before such casualty. Such costs may also include professional fees and premiums for such bonds as the Board of Directors determines to be necessary.

(b) Assessments. If the proceeds of insurance are not sufficient to defray such estimated costs of reconstruction and repair, or in upon completion of reconstruction and repair and funds for the payment of the costs thereof are insufficient, the amount necessary to complete such reconstruction and repair may be obtained from the appropriate reserve

for replacement funds and/or shall be deemed a Common Expense and a special assessment therefor shall be levied.

(c) Plans and Specifications. Any such reconstruction or repair shall be substantially in accordance with the original construction of the Property.

Section 3. Disbursements of Construction Funds.

(a) Construction Funds and Disbursement. The proceeds of insurance collected on account of casualty, and the sums received by the Board of Directors from collections of assessments against Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:

(1) If the estimated cost of reconstruction and repair is less than Fifty Thousand Dollars (\$50,000.00), then the construction fund shall be disbursed in payment of such costs upon order of the Board of Directors.

(2) If the estimated costs of reconstruction and repair is Fifty Thousand Dollars (\$50,000.00) or more, then the construction fund shall be disbursed in payment of such costs upon approval of an architect qualified to practice in New Mexico and employed by the Board of Directors to supervise such work, payment to be made from time to time as the work progresses. The architect shall be required to furnish a certificate giving a brief description of the services and materials furnished by various contractors, subcontractors, materialmen, the architect and other persons who have rendered services or furnished materials in connection with the work and stating that: (i) The sums requested by them in payment are justly due and owing and that such sums do not exceed the value of the services and materials furnished; (ii) there is no other outstanding indebtedness known to such architect for the services and materials described; and (iii) the cost as estimated by such architect for the work remaining to be done subsequent to the date of such certificate does not exceed the amount of the construction fund remaining after payment of the sum so requested.

(b) Surplus. It shall be presumed that the first monies disbursed in payment of the cost of reconstruction and repair shall be from insurance proceeds and, if there is a balance in the construction fund after the payment of all of the costs of the reconstruction and repair for which the fund is established, such balance shall be divided among all Unit Owners in proportion to their Common Expense Liability and shall be distributed in accordance with the priority of interests at law or in equity in each Unit.

(c) Common Elements. When the damage is to both Common Elements and Units, the insurance proceeds shall be applied first to the cost of repairing those portions of the Common Elements which enclose and service the Units, then to the cost of repairing the other Common Elements and thereafter to the cost of repairing the Units.

(d) Certificates. The Board of Directors shall be entitled to rely upon a certificate executed by the President or Vice President, and the Secretary, certifying: (1) whether the damaged Property is required

to be reconstructed and repaired; (2) the name of the payee and the amount to be paid with respect to disbursement from any construction fund or whether surplus funds to be disbursed are less than the assessments paid by the Unit Owners; and (3) all other matters concerning the holding and disbursing of any construction fund. Any such certificate shall be delivered to the Board of Directors promptly after request.

Section 4. When Reconstruction is Not Required. In the event of insubstantial damage to the Common Elements and if the Board of Directors shall elect not to repair the same then in such event any insurance proceeds received on account of such damage shall be distributed among all Unit Owners in proportion to their respective Percentage Ownership Interest in Common Elements. If the Condominium shall be terminated pursuant to Section 47-7B-18 of the Act, the net assets of the Condominium together with the net proceeds of insurance policies, if any, shall be divided by the Board of Directors among all Unit Owners in proportion of their respective interests, after first paying out of the share of each Unit Owner, to the extent sufficient therefor, the amount of any unpaid liens on his Unit in the order of priority of such liens.

ARTICLE VIII

Mortgages

Section 1. Notice to Board of Directors. A Unit Owner who mortgages his Unit shall notify the Board of Directors of the name and address of his Mortgagee and shall file a conformed copy of the Note and Mortgage with the Board of Directors.

Section 2. Notice of Default, Casualty or Condemnation. The Board of Directors when giving notice to any Unit Owner of a default in paying an assessment for Common Expenses or any other default, shall simultaneously send a copy of such notice to the Mortgagee of such Unit. Each Mortgagee shall also be promptly notified of any casualty giving rise to a possible claim under any insurance purchased under Article VI, of all actions taken under Article VII and of any taking in condemnation or by eminent domain and actions of the Association with respect thereto. For purposes of this Section only, when notice is to be given to a Mortgagee, the Board of Directors shall also give such notice to the Federal Home Loan Mortgage Corporation, the Veterans Administration, the Federal Home Administration, the Farmer's Home Administration, the Federal National Mortgage Association and any other public or private secondary mortgage market entity participating in purchasing or guarantying Mortgages of Units in the Condominium as to which the Board of Directors has notice of such participation.

Section 3. Notice of Amendment of Declaration or Bylaws. The Board of Directors shall give notice to all Mortgagees thirty (30) days prior to the date on which the Unit Owners, in accordance with the provisions of these Bylaws, propose to partially amend the Bylaws.

Section 4. Notice of Change in Managing Agent. The Board of Directors shall give notice to all Mortgagees thirty (30) days prior to retaining or changing a Managing Agent and no such retention or change shall be adopted

without the written consent of all Mortgagees.

Section 5. Mortgagees' Approvals. Unless all mortgagees shall have given their prior written approval, neither the Association nor any Unit Owner shall:

(a) Change the Percentage Interest or obligations of any Unit.

(b) By act or omission withdraw the submission of the Property to the Act, except as provided by the Act, the Declaration or these Bylaws.

Section 6. Other Rights of Mortgagees. All Mortgagees or their representatives shall be entitled to attend meetings of the Association and shall have the right to speak thereat. All such Mortgagees shall have the right to examine the books and records of the Condominium, and to require the submission of annual financial reports and other budgetary information.

ARTICLE IX

Compliance and Default

Section 1. Relief. Each Unit Owner shall be governed by, and shall comply with, all of the terms of the Act, the Declaration and these Bylaws as any of the same may be amended from time to time. In addition to the remedies provided in Section 47-7C-16 of the Act, a default by a Unit Owner shall entitle the Association, acting through its Board of Directors or through the Managing Agent, to the following relief:

(a) Additional Liability. Each Unit Owner shall be liable for the expense of all maintenance, repair or replacement rendered necessary by his act, neglect or carelessness or the act, neglect or carelessness of any member of his family or his employees, agents or licensees, but only to the extent that such expense is not covered by the proceeds of insurance carried by the Board of Directors. Such liability shall include any increase in casualty insurance rates occasioned by use, misuse, occupancy or abandonment of any Unit or its appurtenances.

(b) Costs and Attorney's Fees. In any proceeding arising out of any alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of such proceedings and such reasonable attorney's fees as may be determined by the court.

(c) No Waiver of Rights. The failure of the Association, the Board of Directors or of a Unit Owner to enforce any right, provision, covenant or condition which may be granted by the Act, the Declaration and these Bylaws shall not constitute a waiver of the right of the Association, the Board of Directors or the Unit Owner to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Association, the Board of Directors or any Unit Owner pursuant to any term, provision, covenant or condition of the Act, the Declaration and these Bylaws shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other privileges as may be granted to such party by the Act, the Declaration and these Bylaws or at law or in equity.

(d) Interest. In the event of a default by any Unit Owner

in paying any sum assessed against his Unit other than for Common Expenses which continues for a period in excess of thirty (30) days, the principal amount unpaid shall bear interest at the rate of eighteen percent (18%) per annum from the date until paid.

(e) Abating and Enjoining Violations by Unit Owners. The violation of any of the Regulations adopted by the Board of Directors, the breach of any Bylaw contained herein or the breach of any provision of the Declaration or the Act shall give the Board of Directors the right, in addition to any other rights set forth in these Bylaws: (1) to enter the Unit in which, or as to which, such violation or breach exists and summarily to abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board of Directors shall not thereby be deemed guilty in any manner of trespass; or (2) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity the continuance of any such breach.

(f) Legal Proceedings. Failure to comply with any of the terms of the Declaration, these Bylaws and the Rules and Regulations shall be grounds for relief, including without limitation, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all assessments, any other relief provided for in these Bylaws or any combination thereof and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Association, the Board of Directors, the Managing Agent or, if appropriate, by any aggrieved Unit Owner and shall not constitute an election of remedies.

Section 2. Lien for Assessments.

(a) The total annual assessment of each Unit Owner for Common Expenses or any special assessments made pursuant to these Bylaws is hereby declared to be a lien levied against the Condominium Unit of such Unit Owner as provided in Section 47-7C-16 of the Act, which lien shall, with respect to annual assessments, be effective on the first day of each fiscal year of the Condominium and, as to special assessments, on the first day of the next month which begins more than fifteen (15) days after delivery to the Unit Owner of notice of such special assessment. The Board of Directors or the Managing Agent may file or record such other or further notice of any such lien, or such other or further document, to confirm the establishment and priority of such lien.

(b) In any case where an assessment against a Unit Owner is payable in installments, upon a default by such Unit Owner in the timely payment of any two (2) consecutive installments, the maturity of the remaining total of the unpaid installments of such assessments may be accelerated, at the option of the Board of Directors, and the entire balance of the annual assessment may be declared due and payable in full by the service of notice to such effect upon the defaulting Unit Owner and his Mortgagee by the Board of Directors or the Managing Agent.

(c) The lien for assessment may be enforced and foreclosure in the manner provided by the laws of the State of New Mexico by action in the name of the Board of Directors, or the Managing agent, acting on behalf of the Association. During the pendency of such suit the Unit

Owner shall be required to pay a reasonable rental for the Unit for any period prior to sale pursuant to any judgment or order of any court having jurisdiction over such sale. The plaintiff in such proceeding shall have the right to the appointment of a receiver, if available under the laws of the State of New Mexico.

(d) A suit to recover a money judgment for unpaid contributions may be maintained without foreclosing or waiving the lien securing the same, and a foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment.

Section 3. Supplemental Enforcement of the Lien. In addition to the proceedings at law or in equity for the enforcement of the lien established by the Declaration, these Bylaws or the Act, all of the Unit Owners may be required by the Declarant or the Board of Directors to execute bonds conditioned upon the faithful performance and payment of the installments of the lien established thereby.

Section 4. Subordination and Mortgage Protection. Notwithstanding any other provisions hereof to the contrary, the lien of any assessment levied pursuant to these Bylaws upon any Unit (and any penalties, interest on assessments, late charges or the like) shall be subordinate to, and shall in no way affect the rights of the holder of a Mortgage made in good faith for value received; provided, however, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer of such Unit pursuant to a decree of foreclosure, or any proceeding in lieu of foreclosure. Such sale or transfer shall not relieve the purchaser of the Unit at such sale from liability for any assessment thereafter becoming due, nor from the lien of any such subsequent assessment, which lien shall have the same effect and be enforced in the same manner as provided herein.

ARTICLE X

Amendments to Bylaws

Section 1. Amendments. These Bylaws may not be modified or amended except by vote of sixty-seven percent (67%) of the votes in the Association. Provided, however, that until the termination of Declarant's control of the Association (a) Section 2 of Article II, (b) Section 9 of Article II, (c) Section 1 of Article III, and (d) Section 1 of this Article X may not be amended without the consent in writing of the Declarant, so long as the Declarant shall be a Unit Owner of Units representing ten (10%) percent or more of the units which may be created in the Condominium.

Section 2. Approval of Mortgagees. These Bylaws contain provisions concerning various rights, priorities, remedies and interests of Mortgagees. Such provisions in these Bylaws are to be construed as covenants for the protection of such Mortgagees on which they may rely in making loans secured by Mortgages. Accordingly, no amendment or modification of these Bylaws impairing or affecting such rights, priorities, remedies or interests of a Mortgagee shall be adopted without the prior written consent of such Mortgagee.

ARTICLE XI

Miscellaneous

Section 1. Notices. All notices, demands, bills, statements or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by registered or certified mail, return receipt requested, postage prepaid (or otherwise as the Act may permit), (a) if to a Unit Owner, at the address which the Unit Owner shall designate in writing and file with the Secretary or, if no such address is designated, at the address of the Unit of such Unit Owner, or (b) if to the Association, the Board of Directors or to the Managing Agent or at such other address as shall be designated by notice in writing to the Unit Owners pursuant to this Section. If a Unit is owned by more than one person, each such person who so designated an address in writing to the Secretary shall be entitled to receive all notices hereunder.

Section 2. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws or the intent of any provision thereof.

Section 3. Gender. The use of the masculine gender in these Bylaws shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context so requires.

Section 4. Records. The corporation shall maintain current copies of the Articles of Incorporation, the Declaration, Bylaws and any rules and regulations adopted by the corporation available for inspection by any Unit Owner and any holders, guarantor or insuror of a mortgage or any Unit in the Condominium during normal business hours.

Section 5. Books of Account. The books of account referred to in Article III Section 2 (1) are to be available for inspection by holders, insurors and guarantors of mortgages secured by Units during normal business hours. The audit referred to therein shall also be made available to the above persons upon written request.

Section 6. Condemnation or Liquidation. In the event of the condemnation or liquidation of all or any portion of the Condominium, the Association shall represent the Unit Owners in any proceedings, negotiations, settlements or agreements. All proceeds from the condemnation or liquidation shall be payable to the Association for the benefit of the Unit Owners and their mortgage holders to be distributed as their interests may appear.

Section 7. Declarant's Responsibility. Declarant shall pay any assessments for deferred maintenance; reserves for replacements, capital improvements or special assessments on Units owned by him until the period of Declarant control terminates under paragraph "11" of the Declaration.

In WITNESS WHEREOF, the Declarant has caused these Bylaws to be executed and attested on behalf of the Association, this 21 day of January 1986

PROSPECTOR'S POINT CONDOMINIUM ASSOCIATION INC.

BY

James H. [Signature] PRESIDENT
[Signature] SECRETARY
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