

**BYLAWS  
OF VILLA SANDIA AT BEAR CANYON NORTH  
HOMEOWNERS ASSOCIATION**

**DATED OCTOBER 2006**

**REPLACES BYLAWS  
OF VILLA SANDIA AT BEAR CANYON NORTH  
HOMEOWNERS ASSOCIATION**

**DATED SEPTEMBER 25, 1979**



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## ARTICLE I DEFINITIONS

The following terms, except where the context indicates otherwise, shall have the respective meanings set forth below.

"Articles of Incorporation" shall mean the Articles of Incorporation of the Association, together with any amendments thereof.

"Association" shall mean Villa Sandia at Bear canyon North Homeowners Association, a New Mexico non-profit corporation, its successors or assigns.

"Board of directors" shall mean the Board of Directors of the Association and the governing body of any successors or assigns of the Association.

"Building" shall mean the structure or structures located or to be located on any portion of the Property.

"Building Unit Ownership Act" is the act under which the original Bylaws were created when these condominiums were built. (NM statutes 1978 47-7-1 to 47-7-28)

"Bylaws" shall mean the Bylaws of Villa Sandia at Bear Canyon North Homeowners Association, together with any amendments thereto.

"Common Area" shall mean that portion of the property designated in Article VI of the Declaration.

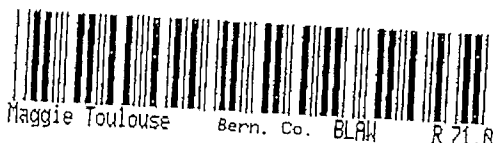
"Common Expenses" shall mean all expenses lawfully assessed against Unit Owners by the Association, including, but not to the exclusion of other common charges provided for in the Declaration, in the Building Unit Ownership Act and in the Bylaws, the expenses of administration of the Association and the maintenance, operation, insuring, repair or replacement of the Common Areas and the expenses of administering and operating recreation programs for the benefit of the Unit Owner.

"Common Profits" shall mean the balance of income, rents, profits and revenues from the Common Areas remaining after the deduction there from of Common Expenses.

"Declaration" shall mean the Declaration of Covenants, Conditions and Restrictions of Villa Sandia at Bear Canyon North dated September 25, 1979, together with all amendments thereto.

"Limited Common Areas" shall mean the Common Areas designated in the Declaration as reserved for use of certain Units to the exclusion of others. The exclusive use of Limited Common Areas is subject to the Declaration and Bylaws, the right of the Association to regulate the same and the duty of the Association to maintain the same as though, and to the same extent as if, these areas were Common Areas.

"Phase I" shall mean that real property located in Bernalillo County, New Mexico, described in Exhibit A to the Declaration, together with all improvements constructed or to be constructed thereon and all easements, servitude's, rights and appurtenances belonging thereunto and all chattels intended for use in connection therewith.



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"Phase II" shall mean that real property located in Bernalillo County, New Mexico, described in Exhibit E to the Declaration, together with all improvements constructed or to be constructed thereon and all easements, servitude's, rights and appurtenances belonging thereunto and all chattels intended for use in connection therewith.

"Phase III" shall mean that real property located in Bernalillo County, New Mexico, described in Exhibit F to the Declaration, together with all improvements constructed or to be constructed thereon and all easements, servitude's, rights and appurtenances belonging thereunto and all chattels intended for use in connection therewith.

"Property" shall mean the real property and improvements constructed or to be constructed thereon which by the Declaration, or any amendment thereto, has been submitted to the Building Unit Ownership Act. Initially, the term "Property" shall mean Phase I, Phase II and Phase III and the improvements constructed or to be constructed thereon.

"Unit" shall mean that separate space or area in a Building intended for independent residential use (including the balcony or patio, storage closet, air conditioning unit and water heating unit associated therewith) with direct access to a portion of the Common Area.

"Unit Owner" shall mean the person or persons owning a Unit in fee simple absolute and an undivided interest in the fee simple estate of the Common Area in the percentage specified and established in the Declaration, including contract sellers (or contract purchasers, if so designated by the contract seller) but does not include those having an interest in the Unit merely as security for the performance of an obligation.



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**ARTICLE II  
PLAN OF UNIT OWNERSHIP**

**Section 2.01 Unit Ownership.** Pursuant to the Declaration, the Declarant has submitted the Property to the provisions of the Building Unit Ownership Act. These Bylaws are adopted pursuant to the provisions of the Building Unit Ownership Act and are applicable to the Property and to the use and occupancy thereof.

**Section 2.02 Application.** All present and future Unit Owners, mortgagees, lessees and occupants of the Units and their guests, i.e. (relatives, friends, workmen or employees such as babysitters or cleaning persons) and any other persons who may use the facilities located on the Property in any manner are subject to these Bylaws, the Declaration and to the Rules and Regulations established by the Board of Directors as hereinafter set forth. The acceptance of a deed or conveyance or the entering into of a lease or the act of occupancy of a Unit by any of the foregoing persons shall constitute an agreement that these Bylaws, the Rules and Regulations and the provisions of the Declaration, as they may be amended from time to time, are accepted, ratified, and will be followed.



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**ARTICLE III**  
**MEMBERSHIP IN ASSOCIATION**

**Section 3.01 Membership in Association.** Each Unit Owner shall, by virtue of holding title to a Unit, become a member of the Association, shall hold one membership for each Unit so held by said Unit Owner and shall be bound by all of the provisions contained in the Articles of Incorporation, Bylaws and the Declaration, as they presently exist or as they may be amended hereafter from time to time.

**Section 3.02 Membership Inseparable from Ownership.** No person other than a Unit Owner may be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Unit.

**Section 3.03 Proof of Membership.** No person or persons shall exercise the rights of membership in the Association until satisfactory proof has been furnished to the Manager or to the Secretary of the Association of ownership of a Unit. Such proof may consist of a copy of a duly executed and acknowledged deed or title insurance policy showing such person to be the Owner of a Unit, which deed or title policy shall be deemed conclusive in the absence of a conflicting claim based upon a later deed or title policy.



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**ARTICLE IV  
BOARD OF DIRECTORS**

**Section 4.01 Election and Number.** The Association shall be governed by a Board of Directors consisting of seven (7) persons. Each Director of the Board shall serve for a period of two years. At the expiration of the initial term of office of each respective director, his/her successor shall be elected to serve for a period of two (2) years. The directors shall hold office until their successor has been elected and has accepted his/her appointment. The term of at least one-third (1/3) of the directors shall expire annually. Members of the Board shall be Unit Owners in good standing, but they are not required to reside on the property. Any vacancy on the Board of Directors shall be filled on an interim basis by a vote of the existing Board of Directors, which vacancy shall thereafter be filled on a permanent basis by election at the annual Homeowners meeting.

**Section 4.02 Powers and Duties.** The affairs of the Association shall be managed by the Board of Directors. The Board of Directors shall have the following authority, duties and powers to be exercised for the benefit of the Units and the Unit Owners:

The Association, acting through the Board of Directors, shall have all of the powers set forth in the Articles of Incorporation together with its general powers as a non-profit corporation, generally to do any and all things that a corporation organized under the laws of New Mexico may lawfully do in operating for the benefit of its members, subject only to the limitations upon the exercise of such powers as are expressly set forth in the Articles of Incorporation, the Bylaws and the Declaration, and to do any and all lawful things which may be authorized, required or permitted to be done by the Association under and by virtue of these Bylaws and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Association or for the peace, health, comfort, safety and/or general welfare of the Unit Owners and their guests. Without in any way limiting the generality of the foregoing, the association, acting through the Board of Directors, shall have the following powers:

(a) To operate, maintain, repair, paint, landscape, care for and preserve the Common Area to the standard of maintenance prevalent in the neighborhood and to pay for such equipment, tools, supplies, and other personal property for use in such maintenance;

(b) To carry out the functions of a professional property management company;

(c) To levy monthly assessments in advance for maintenance, water and other purposes;

(d) To create assessment funds into which the Board of Directors shall place all funds collected by assessment or otherwise, such funds to be used and expended for the purposes herein set forth;

(e) To increase the annual assessment or vote a special assessment in excess of that amount if required to meet any additional expenses;

(f) To pay taxes and assessments levied and assessed against the Property (except taxes or assessments assessed to the separate Units);

(g) To pay for legal and accounting services necessary in the proper operation of the Common Area, or the enforcement of these Bylaws, insurance and other expenses; to pay for all public utilities



(except for utilities individually metered to separate Units); and to pay the cost of all water for domestic, landscaping, fire and recreational demands and other purposes as metered through the master water meter;

(h) To repair and replace common facilities, machinery and equipment;

(i) To insure and keep insured all jointly owned personal property, the Buildings and other improvements erected upon the Property, including the Common Area, against destruction by fire and other casualties;

(j) To collect the delinquent assessments by suit or otherwise and also to enjoin or seek damages from other Unit Owners for violations of the covenants herein contained on the part of the Unit Owners to be performed or for violations of the rules hereinafter referred to;

(k) To employ the services of a professional property management company or qualified residential Unit Owner to manage the affairs of the Association herein called "Manager" to the extent deemed advisable by the Board of Directors as well as such other personnel as the Board of Directors shall determine necessary or proper for the operation of the Common Area, whether such personnel are employed directly by the Board of Directors or are furnished by the Manager; provided, however, any contract for such services must provide for termination:

(1) For cause upon thirty (30) days written notice by the Association;

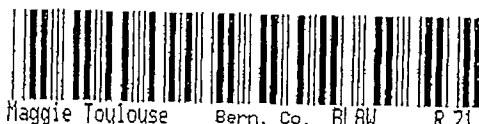
(2) By either party without cause or payment of a termination fee on ninety (90) days or less written notice; and

(3) Shall be limited in duration to one (1) year unless a longer period is approved by a majority of the members of the Association.

The Board of Directors may delegate any of its duties, powers or functions to the Manager (except the power to levy fines pursuant to Section 4.02(n) below), providing such delegation shall be revocable upon notice by the Board of Directors. The Manager 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. The members of the Board of Directors shall not be liable for any omission or improper exercise by the Manager of any such duty, power or function so delegated by written instrument executed by a majority of the Board of Directors. In the event that an Interim Manager is required, the Board of Directors shall act as Interim Manager, or will appoint a unit owner of their choosing.

A professional property management company manager shall have a minimum of five (5) years experience in real estate community management. The Manager must be able to advise the Board of Directors regarding the administrative operation of the property and shall employ personnel expert in the areas of condominium insurance, accounting, labor relations and condominium regulations. The Manager shall perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate to the Manager all the powers granted to the Board of Directors by these Bylaws. The Manager 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;

The Manager is required to maintain adequate financing control procedures; cash accounts of the Association shall not be commingled with any other accounts; no remuneration shall be accepted by the Manager 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; a monthly financial report shall be prepared for the Association disclosing all income and disbursement activity, status of all accounts in an "actual" and "projected" budget format; and any actual or pending obligations which are in excess of budgeted amounts by an amount exceeding the



operating reserves or 5% of a major budget category (as distinct from a specific line item in an expanded chart of accounts);

(l) To enter into contracts except that neither the Board of Directors nor any officer may encumber or dispose of any interest of any Unit Owner except in order to satisfy a judgment against such Unit Owner for violation of these Bylaws or the deeds to grantees;

(m) To make reasonable Rules and Regulations concerning the use of the herein described Property and to amend the same from time to time, and such Rules and Regulations and amendments shall be binding upon the Unit Owners when the Board of Directors has approved them in writing; a copy of such Rules and Regulations and all amendments shall be delivered to each Unit Owner prior to the time when the same shall become effective;

(n) To impose a fine of Fifty Dollars (\$50.00) per notice of each violation of these Bylaws or said Rules and Regulations, after notification of Unit owner. If requested by the Unit owner, a hearing before the Board of Directors can be scheduled;

(o) To landscape and maintain the common areas, provided, however, that all landscaping inside enclosed balconies or patios shall be provided by the Unit Owner;

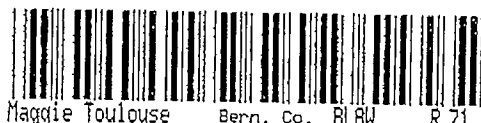
(p) To maintain and paint the exterior surfaces of the Buildings, including, without limitation, caulking, painting, replacement of trim, and repairs to the roof covers; to make miscellaneous repairs of a non-structural nature as often as the Board of Directors shall deem necessary;

(q) To acquire and pay for out of the assessment fund any materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments which the Board of Directors is required to secure or pay for pursuant to the terms of these Bylaws or by law, or which in its opinion shall be necessary or proper for the operation of the Common Area or for the enforcement of these Bylaws;

(r) To pay any amount necessary to discharge any lien or encumbrance levied against the entire Property or any part hereof which may constitute a lien against the Property or any part thereof which may constitute a lien against the Common Area other than merely against the interests therein of the particular Unit Owners. Where one or more Unit Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the costs of discharging it, and any costs incurred by the Board of Directors by reason of said lien or liens shall be specifically assessed to said Unit Owners;

(s) To maintain and repair any Unit if reasonably necessary in the discretion of the Board of Directors, to protect the Common Area or to preserve the Property. In the event the Board of Directors gives written notice to a Unit Owner of the necessity of maintenance or repair and said Unit Owner has failed and refused to perform the required maintenance or repair within a reasonable time, the Board of Directors may seek a judgment of any court of competent jurisdiction or may file an arbitration proceeding with the American Arbitration Association. After a judgment or arbitration and decision favorable to the Association, the Board of Directors may acquire and pay out of the maintenance fund any materials, supplies, labor, services, maintenance, repairs or structural alterations as are authorized by the judgment or arbitration decision and shall levy a special assessment against the Unit of such Unit Owner for the expenses and for all costs of litigation, including court costs, arbitration fees and attorneys' fees actually incurred;

(t) To dedicate, transfer or grant licenses to all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed upon by



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the members. No such dedication, transfer or grant of license shall be effective unless an instrument signed by sixty-seven percent (67%) in interest of the members agreeing to such dedication, transfer or grant of license has been recorded;

(u) To expend funds, including court costs and attorneys' fees for enforcing these Bylaws;

(v) To delegate any of its powers or functions to the officers of the Association or to committees of Association members;

(w) Unless at least Unit Owners holding fifty-one percent (51%) of the interest in the aggregate of the undivided interest shall approve such action, the Association shall not be entitled to:

(1) By act or omission seek to abandon, partition, subdivide, or terminate the condominium project; except as provided by statute in case of substantial loss to the Units and/or common elements of the condominium project;

(2) Physically or legally partition or subdivide any Unit;

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

(4) Use hazard insurance proceeds for losses to any Common Area or Unit for other than the repair, replacement or reconstruction of such Common Area or Unit except as provided by statute;

(5) Fail to maintain fire insurance for as near as possible to the full replacement value of the Common Area.

(x) The Board shall not, except with the vote or written assent of a majority of the voting power of the Association:

(1) Enter into a contract with a third person wherein the third person will furnish goods or services for the Common Area or the Association for a term longer than one (1) year with the following exceptions:

(A) A contract with a public utility company if the rates charged for the materials or services are regulated by a governmental agency provided, however, that the term of the contract shall not exceed the shortest term of which the supplier will contract at the regulated rate;

(B) Prepaid casualty and/or liability insurance policies not to exceed three years duration provided that the policy permits for short rate cancellation by the insured.

(2) Incur aggregate expenditures for capital improvements to the Common Area in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year;

(3) Sell during any fiscal year property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year;

(4) Pay compensation to members of the Board of Directors or to officers of the Association for services performed in the conduct of the Association's business provided, however, that the Board of Directors may cause a member or officer to be reimbursed for expenses incurred in carrying on the business of the Association.

**Section 4.03 Removal of Members of the Board of Directors.** At any regular or special meeting of Unit Owners, anyone or more of the members of the Board of Directors may be removed with or without cause by a majority of the Unit Owners and a successor may then and there or thereafter be



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elected to fill the vacancy thus created. Any member of the Board of Directors whose removal has been proposed by the Unit Owners shall be given an opportunity to be heard at the meeting.

**Section 4.04 Vacancies.** Vacancies in the Board of Directors caused by any reason other than the removal of a member thereof by a vote of the Unit Owners shall be filled by vote of a majority of the remaining members of the Board of Directors at a meeting of the Board of Directors after the occurrence of any such vacancy, even though the members of the board of Directors present at such meeting may constitute less than a quorum, and each person so elected shall be a member of the Board of Directors for the remainder of the term of the member so replaced.

**Section 4.05 Regular Meetings.** Regular meetings of the Board of Directors shall be held monthly or as otherwise directed by a majority of the members of the Board of Directors. One such meeting, the organizational meeting, shall be held at the next meeting following the annual meeting of Unit Owners. Any change of date for the monthly meeting shall be made at the previous monthly meeting and posted on the bulletin boards as a means of notifying homeowners.

**Section 4.06 Special Meetings.** Special meetings of the Board of Directors may be called by the President or at least two (2) members of the Board of Directors on five (5) business days' notice to each member of the Board of Directors, given by mail, email or telephone, which notice shall set the time, place and purpose of the meeting.

**Section 4.07 Waiver of Notice.** Any member of the Board of Directors may at any time 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 member of the Board of Directors at any meeting of the Board shall constitute a waiver of notice by him of the time and place thereof. If all the members of the Board of Directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

**Section 4.08 Quorum of Board of Directors.** At all meetings of the Board of Directors, a majority of the members thereof shall constitute a quorum for the transaction of business, and the votes of a majority of the members of the Board of Directors present at a meeting at which a quorum is present shall constitute the decision 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 that might have been transacted at the meeting originally called may be transacted without further notice.

**Section 4.09 Fidelity Bonds.** The Board of Directors shall obtain adequate fidelity bonds for all officers and employees of the Association handling or responsible for that Association's funds. The premiums on such bonds shall constitute a Common Expense.

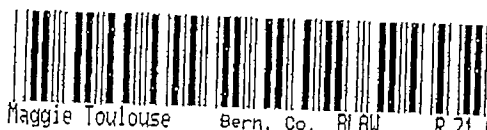
**Section 4.10 Compensation.** No member of the Board of Directors shall receive any compensation from the Association for acting as such, except as provided in these Bylaws.

**Section 4.11 Liability of the Board of Directors.** The members of the Board of Directors shall not be liable to the Unit Owners for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The Unit Owners shall indemnify and hold harmless each of the members of the Board of Directors against all contractual liability to others arising out of contracts made by 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 Declaration or of these Bylaws. It is intended that

the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Association. It is also intended that the liability of any Unit Owner arising out of any contract made by the Board of Directors or out of the aforesaid indemnity in favor of the members of the Board of Directors shall be limited to such proportion of the total liability there under as his/her interest in the Common Areas bears to the interests of all the Unit Owners in the Common Areas. Every agreement made by the Board of Directors or by the managing agent or by the manger on behalf of the Association shall provide that the members of the Board of Directors, or the managing agent, or the manager, as the case may be, are acting only as agents for the Unit Owners and shall have no personal liability there under (except as Unit Owners), and that each Unit Owner's liability there under shall be limited to such proportion of the total liability there under as his/her interest in the Common Areas bears to the interests of all Unit Owners in he Common Areas,

**Section 4.12. Fiscal Year.** The fiscal year for the Association shall end on September 30<sup>th</sup> of each year commencing September 30, 1980.

**Section 4.13.** The Board of Directors may contract on behalf of the Association with a professional property management company to manage the affairs of the Association in accordance with the provisions of these Bylaws.



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**ARTICLE V  
UNIT OWNERS**

**Section 5.01. Title to Units.** Title to Units may be taken in the name of an individual or in the names of two or more persons, as tenants in common or as joint tenants with the right of survivorship, or as community property tenants, or in the name of a corporation or partnership, or in the name of a fiduciary.

**Section 5.02. Annual Meetings.** The Board of Directors shall notify all Unit Owners of the annual meeting designating the time and place of said meeting. The annual meetings of the Unit Owners shall be held in October of each year on a date designated by the Board. At such meetings the Board of Directors shall be elected in accordance with the requirements of Section 4.01 of these Bylaws.

**Section 5.03. Place of Meetings.** Meetings of the Unit Owners shall be held at such suitable place convenient to the Unit Owners as may be designated by the Board of Directors. Generally meetings are to be held at the Clubhouse. If an alternate meeting place is selected, the alternate meeting place shall be posted on the Bulletin Boards at least two (2) weeks prior to the scheduled meeting date.

**Section 5.04. Special Meetings.** It shall be the duty of the President to call a special meeting of the Unit Owners if so directed by resolution of the Board of Directors or, after the first meeting of Unit Owners held pursuant to Section 5.02 hereof, upon a petition signed and presented to the Secretary by Unit Owners owning not less than twenty-five (25%) percent of the undivided interest in the Common Areas. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

**Section 5.05. Notice of Meetings.** It shall be the duty of the Property Manager or the Secretary to assure that a mailed notice of each annual or special meeting of the Unit Owners is sent at least fifteen (15) but not more than thirty (30) days prior to such meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Unit Owner of record, at the Unit address or at such other address as such Unit Owner shall have designated by notice in writing to the Property Manager or the Secretary. The mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice.

**Section 5.06. Adjournment of Meetings.** If any meeting of Unit Owners cannot be held because a quorum has not attended, a majority in common interest of the Unit Owners who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called.

**Section 5.07. Waiver of Notice.** Any Unit Owner may at any time waive notice of any meetings of the Unit Owners in writing, and such waiver shall be deemed equivalent to the giving of such notice.

**Section 5.08. Voting.** Voting shall be on a percentage basis and the percentage vote to which each Unit Owner is entitled is the percentage of undivided ownership assigned to his/her Unit in the Declaration, or any amendment thereof adopted pursuant to the terms of the Declaration. A majority of the total percentage votes cast at a meeting at which a quorum is present shall be binding upon all Unit Owners for all purposes except when a higher percentage is required by these Bylaws, the Declaration or by law.



**Section 5.09. Votes in the Event of Multiple Ownership of a Unit.** In the event that a Unit is owned by more than one person, the co-owners of the Unit shall agree as to the manner in which the vote attributable to their Unit shall be cast prior to any vote. If, at the time of a vote on any issue, a Unit shall have more than one Unit Owner and those Unit Owners cannot agree upon the manner in which the vote attributable to their Unit will be cast, the vote attributable to that Unit will be considered as not having been cast. The vote by one co-owner shall be held to be a valid vote for the Unit, unless challenged at the time the vote is cast.

**Section 5.10. Order of Business.** The order of business at the annual meeting of the Unit Owners shall be as follows, to the extent required:

- (a) Roll call
- (b) Proof of notice of meeting or waiver of notice
- (c) Reading of minutes of preceding meeting
- (d) Reports of officers
- (e) Report of Board of Directors
- (f) Report of committees
- (g) Election of members of the Board of Directors
- (h) Unfinished business
- (i) New business
- (j) Adjournment

**Section 5.11. Parliamentary Procedure.** At all meetings of the Unit Owners or of the Board of Directors, Roberts' Rules of Order, as then amended, shall be followed, except in the event of conflict, these Bylaws or the Declaration, as the case may be, shall prevail.

**Section 5.12. Quorum.** Except as otherwise provided in these Bylaws, the presence, in person or by proxy, of persons owning one-third (33%) of the total common interest in the Property shall constitute a quorum at any meeting of the Unit Owners.

**Section 5.13. Proxies.** Votes may be cast in person or by absentee ballot/proxy. Absentee ballots/proxies must be filed with the Secretary or Manager at or before the time of each annual meeting. A Unit Owner may designate any person, who shall be a Unit Owner, to act as proxy. The designation of any such proxy shall be made in writing, signed by the Unit Owner, and shall be revocable at any time by written notice to the Secretary or Manager by the Unit Owner designating the proxy. Any such revocation shall not affect the validity of any action previously taken by the person designated in such proxy.



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**ARTICLE VI  
OFFICERS**

**Section 6.01. 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. Such officers shall consist only of members in good standing of the Association. Any person serving as a member of the Board of Directors may also simultaneously serve as an officer of the Association.

**Section 6.02 Election of Officers.** The officers of the Association shall be elected annually by the Board of Directors at the organizational meeting of each new Board of Directors and shall hold office at the pleasure of the Board of Directors.

**Section 6.03 Removal of Officers.** Upon the affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and his successor may be elected at any regular meeting of the Board of Directors or at any special meeting of the Board of Directors called for that purpose.

**Section 6.04 President.** The President shall be the chief executive officer of the Association and shall be a member of the Board of Directors. He/she shall preside at all meetings of the Unit Owners. He/she shall have all of the general powers and duties which are incident to the office of president of a nonprofit corporation organized under the laws of the State of New Mexico, including by not limited to, the power, with the concurrence of the Board of Directors, to appoint committees from among the Unit Owners from time to time as he/she may in his/her discretion decide is appropriate to assist in the conduct of the affairs of the Association.

**Section 6.05 Vice President.** The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act and shall be a member of the Board of Directors. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some 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/her by the Board of Directors or by the President.

**Section 6.06 Secretary.** The Secretary shall keep the minutes of all meetings of the Unit Owners and of the Board of Directors and shall be a member of the Board of Directors; he/she shall have charge of such books and papers as the Board of Directors may direct; and he/she shall, in general, perform all the duties incident to the office of the secretary of a non-profit corporation organized under the laws of the State of New Mexico. This includes bringing forward at each Board meeting any unfinished business from the previous meeting that isn't listed on the agenda.

**Section 6.07 Treasurer.** The Treasurer shall have the responsibility for funds and securities of the Association and shall be responsible for keeping full and accurate financial records and books of accounts showing all receipts and disbursements and for the preparation of all required financial data, except when such duties have been designated to a Manager, and shall be a member of the Board of Directors. He/she shall be responsible for the deposit of all monies and other valuable effects in the name of the Association, or the managing agent, in such depositories as may from time to time be designated by the Board of directors, and he/she shall, in general, perform all the duties incident to the office of treasurer of



a non-profit corporation organized under the laws of the State of New Mexico including the approval of all payment vouchers, except when such duties have been designated to a Manager. In the event the duties of the Treasurer are being performed by a Property Manager, this position will be changed to Member at Large.

**Section 6.08 Agreements, Contracts, Deeds, Checks, etc.** All agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by any two officers of the Association or by such other person or persons including Manager as may be designated by the Board of Directors.

**Section 6.09 Compensation of Officers.** No officer shall receive any compensation from the Association for acting as such, except as otherwise provided in Section 4.02(x)(4) of these Bylaws.



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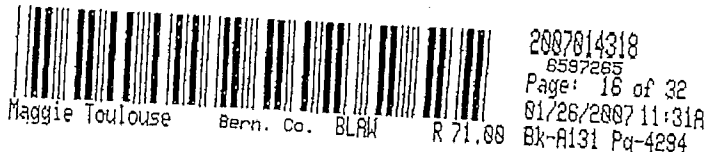
**ARTICLE VII  
OPERATION OF THE PROPERTY**

**Section 7.01 Common Expenses.** As used in these Bylaws and the Declaration, Common Expenses shall include, but not be limited to:

- (a) The cost of repairs and maintenance of the Common Areas and Limited Common Areas;
- (b) The cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board of Directors pursuant to the provisions of these Bylaws;
- (c) The costs and expenses incurred in operation of the Association;
- (d) An amount necessary for such operating and replacement reserve funds as the Board of Directors may deem appropriate;
- (e) An amount necessary to satisfy any deficit in the common expenses for any prior year;
- (f) The costs and expenses of any legal and accounting services incurred in the operation of the Association and the enforcement of these Bylaws and the Declaration;
- (g) Such amount as may be required for the purchase by the Association of any Unit that is to be sold at a foreclosure sale;
- (h) All costs, expenses and fees of any manager engaged by the Board of Directors pursuant to the provisions of these Bylaws;
- (i) All costs and expenses incurred by the Association in the fulfillment of any of its duties imposed pursuant to these Bylaws or the Declaration.

**Section 7.02 Maintenance Fund Assessments.**

- (a) Not less than sixty (60) days prior to the beginning of each fiscal year commencing October 1, 1980, the Board of Directors shall distribute the proposed pro forma operating statement to each Unit Owner. The estimated annual cash requirement shall be assessed by the Board of Directors among the Unit Owners according to their percentage of undivided ownership as established by the Declaration, as amended from time to time, to be paid in monthly installments in advance;
- (b) A balance sheet as of the last day of the Association's fiscal year and an operating statement for said fiscal year shall be distributed within ninety (90) days after the close of the fiscal year;
- (c) The Board of Directors shall monitor the books at all regular Board meetings and determine if and when an audit, internal or external is needed. The Board of Directors shall approve the semi-annual and annual financial reports required by the Bylaws to be mailed to all Unit Owners. Should it be determined that an internal audit is needed, the Board of Directors shall appoint a committee of Unit Owners, none of which shall be Board members, but who have expertise in this area. Such committee will report their findings at the next regular meeting of the Board of Directors, with recommendations for any appropriate action;





(d) Should the Board of Directors feel it wise and prudent to have an external audit at any time; the Board shall secure the services of an independent certified public accountant, and pay for such services from Association funds;

(e) All funds budgeted, allocated and collected for contingencies, deferred maintenance and replacement of capital improvements, shall be held in trust by the Association for and on behalf of each Unit Owner and shall be used solely for contingencies, deferred maintenance and replacement of capital improvements. Said funds shall be deposited in common trustee accounts], either commercial or interest-bearing, entitled the VILLA SANDIA AT BEAR CANYON NORTH HOMEOWNERS ASSOCIATION DEFERRED CAPITAL MAINTENANCE AND REPLACEMENT TRUSTEE ACCOUNT. The Unit Owners shall not be entitled to receive their share of the principal amount of such accounts except on dissolution of the Association. Each Unit Owner's interest in the account will be appurtenant to the Unit and will transfer with the conveyance of the Unit without express reference thereto;

(f) All funds collected for current operation and maintenance shall be deposited in and expended from accounts, either commercial or interest bearing, entitled the VILLA SANDIA AT BEAR CANYON NORTH HOMEOWNERS ASSOCIATION CURRENT MAINTENANCE AND OPERATION ACCOUNT or as mandated by New Mexico banking laws or the New Mexico Real Estate Commission. Funds for current operation and maintenance that are unexpended at the end of the fiscal year shall be credited to the next year's budget;

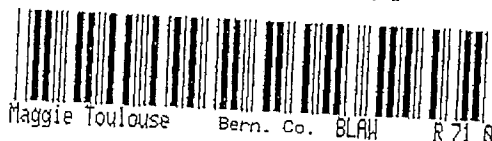
(g) If the estimated total charges for the year prove inadequate for any reason, including non-payment of any Unit Owner's assessment, the Board of Directors may at any time levy a further assessment, which shall be assessed to the Unit Owners in proportion to their percentage of undivided ownership as established by the Declaration, as amended from time to time; provided, however, that any special assessment used by the Board of Directors to reimburse the Association for the costs and expenses incurred to bring the Unit Owner(s) into compliance with the provisions of these Bylaws shall be assessed against such Unit Owner(s).

**Section 7.03 Payment of Common Expenses.** All Unit Owners shall be obligated to pay the Common Expenses assessed by the Board of Directors pursuant to the provisions of Section 7.02 at such time or times as the Board of Directors shall determine.

No Unit Owner shall be liable for the payment of any part of the Common Expenses assessed against him/her Unit subsequent to a sale, transfer or other conveyance by him/her of his/her entire Unit. A purchaser of a Unit shall be liable, jointly and severally with the seller of a Unit, for the payment of Common Expenses assessed against such Unit prior to the acquisition by the purchaser of such Unit, except that a mortgagee or other purchaser of a Unit at a foreclosure sale of such Unit shall not be liable for and such Unit shall not be subject to a lien for the payment of Common Expenses assessed prior to the foreclosure sale.

**Section 7.04 Collection of Assessments.** The Board of Directors shall assess Common Expenses against the Unit Owners monthly and shall take appropriate action to collect any Common Expenses due from any Unit Owner that remain unpaid for more than fifteen (15) days from the due date for payment thereof.

**Section 7.05 Default in Payment of Common Expenses.** In the event of default by any Unit Owner in paying to the Association the Common Expenses as determined by the Board of Directors, such Unit Owner shall be obligated to pay a twenty-five dollar (\$25.00) late fee (amount changed by an October 2003 amendment), after the 15<sup>th</sup> of each month, one time per month, together with all expenses, including attorney's fees and court costs incurred by the board of Directors in any proceeding brought to



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collect such unpaid Common Expenses. The Board of Directors shall have the right and duty to attempt to recover such Common Expenses, together with late fees thereon, and the expenses of the proceeding, including attorney's fees and court costs, in an action to recover the same brought against such Unit Owner, or by foreclosure of the lien on such Unit granted by the provisions of the Building Unit Ownership Act. A notarized copy of the lien will be mailed to the mortgage holder of record. To the extent permitted by law, each Unit Owner by acceptance of a deed to a Unit hereby agrees that the redemption period following a foreclosure sale of the lien for unpaid Common Expenses shall be one month in lieu of nine months. The priority of such liens shall be governed by the terms of said Act. The use of the recreational facilities by any Unit Owner entitled to such use may be suspended by action of the Board of Directors during the period when Common Expenses remain in default.

Any Unit Owner in default of his/her Common Expenses at the time of any annual or special meeting of the Unit Owners shall lose his/her right to vote on any issue until the Common Expenses, attorney fees and court costs have been paid in full.

**Section 7.06 Foreclosure of Liens for Unpaid Common Expenses.** In any action brought by the Board of Directors to foreclose a lien on a Unit because of unpaid Common Expenses, the Unit Owner shall be required to pay a reasonable rental for the use of his/her Unit and the plaintiff in such foreclosure action shall (subject to the prior right of any mortgagee on anyone or more Units) be entitled to the appointment of a receiver to collect the same. The Board of Directors, acting on behalf of all Unit Owners, shall be the right to purchase such Unit at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant thereto, convey or otherwise deal with the same. A suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosing or waiving the lien securing the same.

**Section 7.07 Statement of Common Expenses.** The Board of Directors shall promptly provide any Unit Owner requesting the same in writing a written statement of all unpaid Common Expenses due from such Unit Owner to the date of such a statement.

**Section 7.08 Abatement and Enjoinment of Violations by Unit Owner.** The violation of any rule or regulation adopted by the Board of Directors, or the breach of any Bylaw contained herein, or the breach of any provision of any Bylaw contained herein, or the breach of any provision of the Declaration shall give the Board of Directors the right, in addition to any other rights set forth in these Bylaws:

(a) To enter the Unit in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing 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 or trespass;

(b) To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach at the cost, including attorney's fees, of such Unit Owner;

(c) If the Board of Directors has adopted and published Rules and Regulations governing the use of the common amenities and the personal conduct of any person thereon violates those Rules and Regulations, to suspend such use of the common amenities by any such person for violation of such Rules and Regulations for a period not to exceed thirty (30) days for any single violation, with the exception of the pool area;

(d) To levy summary charges against a Unit Owner for such violation, in addition to any damages, provided that no summary charges may be levied for more than \$50 per notice of anyone violation; Collection of charges for damages or summary charges may be enforced against the Unit



Owner or Owners involved as if the charge were a Common Expense owed by the particular Unit Owner or Owners.

#### Section 7.09 Maintenance and Repairs.

(a) All maintenance of and repairs to any Unit, structural or non-structural, ordinary or extraordinary (other than maintenance of and repairs to any Common Areas and facilities contained thereon, and not necessitated by the negligence, misuse or neglect of the Unit Owner of such Unit) shall be made by the Unit Owner of such Unit. Each Unit Owner shall be responsible for all damages to any and all other Units and/or to the Common Areas and facilities that his/her failure to do so may have created;

(b) All maintenance, repairs and replacements to the Common Areas and Limited Common Areas (unless necessitated by the negligence, misuse or neglect of a Unit Owner, in which case such expense shall be charged to such Unit Owner), shall be made by the Board of Directors and be charged to all the Unit Owners as a Common Expense.

**Section 7.10 Insurance.** To the extent available, the Association shall obtain and maintain insurance coverage substantially identical to that set forth in hereto and made a part hereof. All insurance affecting the Property shall be governed by the provisions of these Bylaws and the Building Unit Ownership Act.

(a) A single limit Comprehensive General Liability policy insuring the Association and the Unit Owners against liability for bodily injury and property damage occurring incident to the use of the Common Areas, including the swimming pool, with a personal injury and medical payment endorsement. Such liability insurance shall not cover the liability exposure of a Unit Owner within his unit;

(b) Workmen's Compensation Insurance. The Board of Directors shall obtain and maintain Workmen's Compensation Insurance if required by the laws of the state of New Mexico;

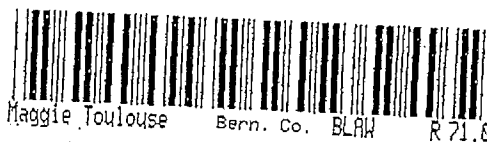
(c) Other Insurance. The Board of Directors is authorized to obtain and maintain such other insurance as it may from time to time deem appropriate;

(d) Nothing in these Bylaws shall prevent any Unit Owner from procuring additional insurance in his/her own behalf nor shall these Bylaws prejudice the rights of any Unit Owner who does procure such additional insurance.

#### Section 7.11 Repair or Reconstruction After Fire or Casualty.

(a) Subject to the prior rights of mortgagees and subject to the provisions of the Declaration, in the case of fire or other disaster, the insurance indemnity shall be applied to reconstruct the Buildings unless the damage comprises more than sixty-seven percent (67%) in value of the Buildings, in which case the indemnity may be delivered pro rata to the co-owners in accordance with the decision of seventy-five percent (75%) of the Unit Owners;

(b) Any cost of repair and restoration in excess of the insurance proceeds shall constitute a Common Expense and the Board of Directors may assess all the Unit Owners for such deficit as part of the Common Expenses.



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**Section 7.12 Restrictions on Use of Units.** In order to provide for congenial occupancy of the Property and for the protection of the values of the Units, the use of the Property shall be restricted to and shall be in accordance with the following provisions:

(a) Each Unit shall be used as a residence and for no other purpose; occupancy per Unit shall be limited to one to four persons living as a single housekeeping unit;

(b) There shall be no obstruction of the Common Area or Limited Common Areas. No Unit Owner shall place in the Common Area or Limited Common Areas any furniture, packages, or objects of any kind except temporarily in connection with mail or freight deliveries or when residents are moving in or out of Units. The Common Area or Limited Common Areas shall not be used for storage of supplies, personal property, trash or refuse of any kind nor shall the patios or balconies be used in any way for storing unsightly objects or for the drying or airing of clothing or other fabrics. Nothing shall be stored in the Common Area or Limited Common Areas, with the exception of patio storage closets, without prior consent of the Board of Directors, except as herein expressly provided;

(c) Nothing shall be done or kept in any Unit or in the Common Area or Limited Common Areas that will increase the rate of insurance without prior written consent of the Board of Directors. No Unit Owner shall permit anything to be done or kept in his/her Unit or in the Common Area or Limited Common Areas, with the exception of patio storage closets, without prior consent of the Board of Directors, except as herein expressly provided;

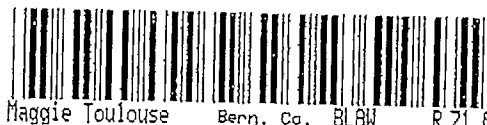
(d) No sign of any kind shall be displayed to the public view on or from any Unit, any Common Area, or Limited Common Areas without the approval of the Association, except one (1) "for sale" or "for lease" sign on any Unit, either in one window or in front of the Unit. It must not be larger than 18" x 24";

(e) No television or radio poles, antenna, flag poles, clotheslines, or other external fixtures other than original installations or those approved by the Board of Directors and any replacements shall be constructed, erected, or maintained on or within the Common Area or any structures on it. No wiring, insulation, air-conditioning, or other machinery or equipment other than original installations or those approved by the Board of Directors, and their replacements shall be constructed or maintained on or within the Common Area or any structures on it;

(f) No Unit Owner shall store any dangerous explosive or inflammable liquids in his/her Unit or in the Common Area;

(g) The maintenance, keeping, boarding and/or raising of animals, livestock, or poultry of any kind, regardless of number, shall be and is prohibited within any Unit or upon the Common Areas except that of small, orderly domestic animals, including a maximum of one indoor cat, and excluding any dogs anywhere on the premises. Any such pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the Owner's Unit upon ten (10) days written notice from the Board of Directors. Any Unit Owner who keeps and maintains any pet within their Unit shall be deemed to have agreed to indemnify and hold the Association and each Unit Owner freed 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 Unit. Each Owner shall prevent their pet from making excessive noise, and shall be financially responsible for any damage caused by the pet. Owners must follow the City of Albuquerque pet ordinances;

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



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(i) No activities shall be carried on nor condition maintained by any Unit Owner that despoils the appearance of the Property. No Unit Owner shall make any alterations, additions or modifications to or on any portion of the Common Area or cause drapes, curtains, shades or furniture to be installed or placed in any part of his/her Unit which is visible from the exterior of his/her Unit in colors or patterns which are inconsistent with those approved by the Architectural Control Committee appointed pursuant to Section 7.14 hereof and/or the Board of Directors. In the event the Architectural Control Committee deems any such condition objectionable, after written notice to the Unit Owner, and an opportunity to be heard before the Board of Directors, the Unit Owner shall correct such condition. If the condition is not corrected by the date set by the Board of Directors, a fine may be assessed;

(j) No Unit Owner shall park, store or maintain in or on the Property any boats, trailers, campers, recreational vehicles or vehicles other than ordinary passenger cars, SUV's and trucks small enough to fit inside the covered parking spaces. The temporary parking of boats, trailers, or other vehicles not customarily used for means of general transportation for periods of short duration, but not to exceed four (4) hours within any forty-eight (48) hour period as an incident to loading or unloading therefore shall not be deemed a violation of this paragraph. Unless specific approval is granted by the Board of Directors, no Unit Owner shall park more than two (2) passenger vehicles on the premises. No repairs to any automobile or other motor-driven vehicle may be made on the premises, except in case of strict emergencies. Car washing is not permitted anywhere on the Property;

(k) None of the rights and obligations of the Unit Owners created herein, or by the Declaration, shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of a Unit Owner or Unit Owners if said encroachment occurred due to the willful conduct of said Unit Owner or Unit Owners;

(l) Each Unit Owner, tenant or occupant of a Unit shall comply with the provisions of the Declaration, the I Articles of Incorporation and Bylaws of the Association, decisions, rules, regulations and resolutions of the Association or its duly authorized representative, all as lawfully amended from time to time, and failure to comply with any such provisions, decisions, rules, regulations or resolutions, shall be grounds for an action to recover sums due, for damages, or for injunctive relief;

(m) The result of every act or omission whereby any of the covenants contained in the Declaration or the provisions of the Bylaws are violated in whole or in part is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance either public or private shall be applicable against every such result and may be exercised by any Unit Owner, by the Association, or by its successors in interest;

(n) The administration of the real property herein described shall be in accordance with the Declaration, the Articles of Incorporation and Bylaws of the Association. In the event of any inconsistency, the Articles shall prevail over the Bylaws and the Bylaws shall prevail over the Declaration;

(o) An easement for vehicular ingress and egress to and from each Unit over the private driveway in the Common Area is reserved for the non-exclusive use of each Unit. Parking of automobiles and other motor driven vehicles on the private driveway shall not be permitted except in designated parking spaces;

(p) An easement for pedestrian ingress and egress to and from each Unit over the stairways, sidewalks, paths and private driveway in the Common Area is reserved for the non-exclusive use of each Unit;



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(q) Each Unit Owner shall maintain and keep in repair everything in his Unit and shall have the exclusive right to paint, repaint, tile, wax, paper or otherwise refinish and decorate the inner surfaces of the walls, ceilings, floors, doors bounding his own Unit, and the right to paint or decorate the interior surface of the Balcony or Patio fence;

(r) No Unit Owner shall enlarge his Unit or alter or paint the exterior thereof without prior written consent of the Board of Directors;

(s) In the event of arbitration or litigation between the Association and any member, the prevailing party shall be entitled to an arbitration decision or judgment for all costs of controversy, including arbitration fees and costs, court costs and attorneys' fees actually incurred;

(t) No Unit Owner shall be permitted to lease his Unit for transient or hotel purposes. No Unit Owner may lease less than the entire Unit. All lease agreements shall be in writing and shall provide that the terms of the lease shall be subject in all respects, to the provisions of the Declaration and Bylaws, and that any failure by the lessee to comply with the terms of such documents shall constitute a default under the lease. Other than the foregoing, there are no restrictions on the right of a Unit Owner to lease his Unit.

**Section 7.13 Additions, Alterations or Improvements by Board of Directors.** Whenever in the judgment of the Board of Directors the Common Areas shall require additions, alterations, or improvements, costing in excess of \$10,000, and the making of such additions, alterations or capital improvements shall have been approved by the majority in interest of the Unit Owners, 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 capital improvements costing \$10,000 or less may be made by the Board of Directors without approval of the Unit Owners and the costs thereof shall constitute part of the Common Expense.

**Section 7.14 Architectural Control Committee.** The Board of Directors shall appoint an Architectural Control Committee. Members of the Architectural Control Committee may be Unit Owners or Renters. The Committee will work with and advise the Board of Directors to maintain the visual harmony, esthetic value and repair of the property. No structural or landscaping improvements shall be made to the Property without the prior written consent of the Board of Directors. The Committee will report to the Board of Directors as needed.

**Section 7.15 Custodian Unit.** Anything in the Declaration or Bylaws to the contrary notwithstanding, the Association, upon appropriate resolution of the Board, shall have the power and authority, with the vote or written consent of a majority of the voting power, to purchase a Unit (the "Custodian Unit") to be occupied by the custodian of the project. In such case, during the period the Custodian Unit is owned by the Association:

(a) No right to vote shall be exercised on behalf of the Custodian Unit;

(b) No assessment shall be assessed or levied on the Custodian Unit;

(c) Each other Unit Owner shall be charged, in addition to his usual assessment, his share of the assessment that would have been contributed by the Custodian Unit, if not for the provisions of this paragraph.

**Section 7.16 Condemnation.** In the event of any taking of all or any portion of the Property by eminent domain, or threat thereof, the interest in the award or settlement shall be equitably allocated among the Unit Owners based upon the amounts of loss suffered in the value of the Units as a result of



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the taking, adjusted for the expense, if any, required to repair or restore damage to Common Area or to Units occasioned by such taking.

If an award is for the acquisition of all the Property, the amount payable shall be paid to the Association, as Trustee, for distribution to the Unit Owners in the same proportion as normal assessments are levied against the Unit Owners, subject to the rights of mortgagees holding mortgages on the Units and subject to any unpaid assessments of such Unit Owners.

If the award is for taking a part of a Unit, the Unit Owner of each Unit taken shall be entitled to receive the award for such taking subject to the rights of mortgagees and unpaid assessments and shall have the option to apply the proceeds to restoring the portion of his Unit remaining or to terminate his interest in the development. In the event he terminates his interest and any repair or rebuilding of the remaining portions of the Property is required as a result of the taking, the Association will be entitled to so much of the award as is required for such repair or rebuilding. After any taking the Property may be re-surveyed and appropriate amendments to maps, assessments or to the Declaration may be recorded.

In the event of any taking the Association shall poll the members on the desirability of engaging counsel to represent the Unit Owners as a group. Expenses of such representation shall be specially assessed against the Unit Owners who consent in writing to be so represented.

**Section 7.17 Right of Access.** A Unit Owner shall grant a right of access to his/her Unit to the manager and/or the managing agent and/or any other person authorized by the Board of Directors, for the purpose of making inspections or for the purpose of correcting any condition originating in his/her Unit and threatening another Unit or a Common Area, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services, water pipes or other Common Areas and facilities in his/her Unit, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the Unit Owner. In case of an emergency, such right of entry shall be immediate, whether the Unit Owner is present at the time or not. In the event of the exercise of the right of access provided in this Section 7.17, any costs of repairs shall be borne in accordance with the provisions of Section 7.09.

**Section 7.18 Rules of Conduct.** Rules and Regulations (Exhibit III) concerning the use of the Units, Limited Common Areas and the Common Area may be promulgated and amended by the Board of Directors with the approval of a majority in interest of the Unit Owners. Copies of such Rules and Regulations shall be furnished by the Property Manager to each Unit Owner prior to the time when the same shall become effective. Unit Owners who rent their Units will provide their tenants with a copy of the Rules and Regulations, and will obtain the tenant's signature agreeing to abide by the Rules and Regulations. Rules and Regulations may be amended from time to time by the Board of Directors with the approval of a majority in interest of the Unit Owners and amended copies shall be distributed to each Unit Owner.

**Section 7.19 Water Charges and Sewer Charges.** Water and Sewer services for all Units and the Common Property shall be billed to the Association, and the Property Manager shall pay all said bills as a Common Expense.

**Section 7.20 Gas and Electricity.** Gas and electricity shall be supplied by the public utility company serving the area directly to each Unit through a separate meter and each Unit Owner shall be required to pay the bills for gas and electricity consumed or used in his/her Unit. The gas and electricity serving the Common Areas shall be separately billed to the Association, and the Property Manager shall pay all bills for gas and electricity consumed in such portions of the Common Area, as a Common Expense.



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**Section 7.21 Separate Taxation.** Pursuant to Section 47-7-23, Building Unit Ownership Act, 1978, each Unit and its undivided interest in the Common Areas shall be deemed to be a parcel subject to separate assessment and taxation by each assessing unit and special district for all types of taxes authorized by law, including ad valorem levies and special assessments.

  
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**ARTICLE VIII  
MORTGAGE**

**Section 8.01 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 mortgage with the Board of Directors; the Board of Directors shall maintain such information in a book entitled "Mortgages of Units."

**Section 8.02 Mortgage Protection.** The following provisions are for the protection of each holder of a first mortgage or first deed of trust encumbering any Unit. No amendment of this Article VIII shall affect the rights of the holder of any such mortgage recorded prior to the recordation of such amendment who does not join in the execution thereof:

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

(b) No breach of any of the covenants, conditions, restrictions, limitations, or uses herein contained shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, but all of said matters shall be binding upon any Unit Owner whose title is derived through foreclosure or trustee's sale;

(c) Each holder of a first mortgage or first deed of trust encumbering any Unit which comes into possession of such Unit pursuant to the remedies provided in such mortgage or deed of trust, or by foreclosure of such mortgage or deed of trust, shall be exempt from any "right of first refusal" or other restriction on the sale or rental of such Unit;

(d) All taxes, assessments, and charges that may become liens prior to the first mortgage under local law shall relate only to the individual Units, and not to the project as a whole;

(e) The Association shall give any first mortgagee notice in writing of any loss to, or taking of, the Common Area of the project if such loss or taxing exceeds Ten Thousand Dollars (\$10,000.00);

(f) The Association shall, upon the request of any institutional holder of a first mortgage on a Unit in the project:

(1) Give written notice of all meetings of the Association and permit the lender to designate a representative to attend all such meetings;

(2) Transmit to such lender an annual financial statement of the project within ninety (90) days following the end of any fiscal year of the project.

(g) If any Unit or portion thereof or the Common Area or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the institutional lender of any first mortgage on a Unit shall be entitled to timely written notice of any such proceeding or proposed acquisition, and no provision in these Bylaws shall be interpreted to entitle the Unit Owner or any other party to priority over such institutional holder with respect to the distribution to such Unit of the proceeds of any awards or settlement;



(h) First mortgage holders on individual Units are entitled to written notification from the Association of any default by the mortgagor in the performance of obligations under these Bylaws that are not cured within thirty (30) days;

(i) First mortgagees shall have the right to examine the books and records of the Association or any entity that owns the Common Area of the Association;


(j) There shall be no change in the pro rata interests or obligations of any Unit for purposes of levying assessments and charges and determining shares of Common Area and proceeds of the project without prior written-approval of all holders of first mortgages on individual Units except as otherwise provided in Article VII and Article X of the Declaration;

(k) First mortgage holders on Units may pay taxes or other charges which are in default and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy and first mortgagees making such payments shall be owed immediate reimbursement therefore from the Association to the extent that such taxes, charges or insurance premiums were the responsibility of the Association.

  
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**ARTICLE IX  
TORT LIABILITY**

Each Unit Owner shall be deemed to have released and exonerated each other Unit Owner and the Association, and the Association shall be deemed to have released and exonerated each Unit Owner, from any tort liability other than that based on fraud or criminal acts except to the extent to which such liability can be satisfied by proceeds of liability insurance carried by a Unit Owner or by the Association.

  
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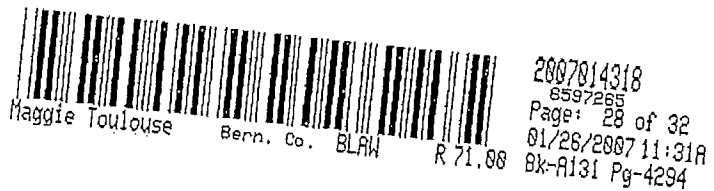
**ARTICLE X  
RECORDS**

**Section 10.01 Records and Audits.** The Board of Directors or Manager shall keep detailed records of the actions of the Board of Directors and Manager, minutes of the meetings of the Board of Directors, \ minutes of the meetings of the Unit Owners and financial records and books of account for the Association, as well as a separate account for each Unit which, among other things, shall contain the amount of each assessment of common charges against such Unit, the date when due, the amounts paid thereon and the balance remaining unpaid, and all other records required under the Building Unit Ownership Act.

**Section 10.02 Statement.** A written report summarizing all receipts and expenditures of the Association shall be rendered by the Board of Directors to all Unit Owners at least semi-annually.

**Section 10.03 Annual Report.** An Annual Report of the receipts and expenditures of the Association shall be rendered by the Board of Directors to all Unit Owners and to all mortgagees of Units whose names appear in the record maintained under Section 8.01 hereof.

**Section 10.04 Examination of Records.** The Board of Directors or manager shall keep detailed, accurate records, in chronological order, of the receipts and expenditures affecting the expenses of the Common Areas and facilities and any other expenses incurred. Such records and vouchers authorizing the payments shall be available for examination by the Unit Owners at convenient hours of weekdays.



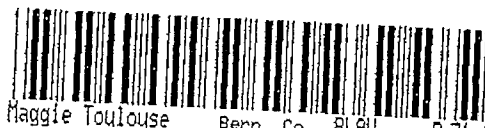
**ARTICLE XI  
MISCELLANEOUS**

**Section 11.01 Notices.** All notices hereunder shall be sent registered or certified mail to the Board of Directors, in care of the Manager, or if there is no Manager, to the office of the Board of Directors or to such other address as the Board of Directors may hereafter designate from time to time, in writing. All notices to mortgagees of Units shall be sent by registered or certified mail to their respective addresses, as designated by such Unit Owner from time to time, in writing, to the Board of Directors. All notices shall be deemed to have been given when mailed, except notices of changes of address that shall be deemed to have been given when received.

**Section 11.02 Invalidity.** The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these Bylaws.

**Section 11.03 Waiver.** No restriction, condition, obligation or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches therefore which may occur.

**Section 11.04 Conflict.** In the event of any conflict between these Bylaws and the provisions of the Building Unit Ownership Act the provisions of that Act shall control.

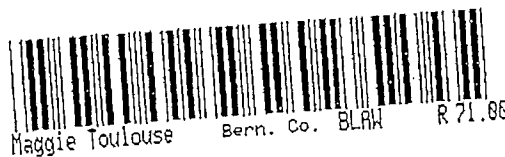


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**ARTICLE XII  
AMENDMENTS TO BYLAWS**

These Bylaws may be altered, amended or added to at any duly called meeting of Unit Owners, provided:

- (a) That the notice of the meeting shall contain a full statement of the proposed amendment;
- (b) That the amendment shall be approved by Unit Owners holding sixty-seven percent (67%) interest in the aggregate of the undivided ownership;
- (c) Said amendments shall be set forth in a duly recorded amendment to the Declaration;
- (d) Said amendment shall be duly filed with the Bernalillo County Clerk's Office. No amendment will affect or impair the validity or priority of the lien of any mortgage encumbering a Unit or Units nor the validity or priority of any other proper liens under the terms of any mortgage on any one or more Units without the written consent of the mortgagee or lien holder affected by such amendment.




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EXHIBIT 1

INSURANCE

1. A policy of fire insurance, with all risk endorsement, for the full insurable replacement value of the Buildings, the swimming pool and other portions of the Common Area naming the Association as the insured, with the Unit owners and holders of first mortgages on a Unit as additional insureds. Such insurance shall not cover personal household contents or improvements made by the Unit Owners to their Units.
  
2. A single limit Comprehensive General Liability policy in the amount of \$1,000,000.00 insuring the Association and the Unit Owners against liability for bodily injury and property damage occurring incident to the use of the Common Areas, including the swimming pool, with a personal injury and medical payment endorsement. Such liability insurance shall not cover the liability exposure of a Unit Owner within his Unit.

  
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