

CONDOMINIUM DECLARATION  
FOR  
BROADWAY CONDOMINIUMS

DECLARATION made this 10<sup>th</sup> day of APRIL, 1979, by Broadway Apartments, Inc., a Wyoming Corporation, hereinafter called "Declarant", for itself, its successors, grantees, and assigns, for the purpose of defining the character, duration, rights, obligations and limitations of condominium ownership pursuant to the Wyoming Condominium Ownership Act.

WHEREAS, Declarant is the owner of certain real property located in Teton County, Wyoming, and more particularly described in EXHIBIT "A" attached hereto, and made a part hereof, which now is developed by a total of (6) residential units, with common elements, and which shall now or hereafter be submitted to condominium ownership under and subject to this Declaration, and

WHEREAS, Declarant hereby submits to the condominium form of ownership and use in the manner provided by the Wyoming Condominium Ownership Act (Wyoming Statutes - 1977 - Sec. 34-20-101 through 104) the above described real property and improvements constructed thereon, and

WHEREAS, the name by which this Condominium is to be identified is "Broadway Condominiums", a Condominium, and its address is Box 3, Jackson, Wyoming 83001.

NOW THEREFORE, the Declarant does hereby publish and declare that all of the property described above is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, and occupied, and improved subject to the following terms, covenants, conditions, easements, restrictions, uses, limitations and obligations, all of which shall be deemed to run with the land, shall be a burden and a benefit to Declarant, his heirs, executors, administrators and assigns, and any person acquiring or owning an interest in the real property and improvements, their grantees, successors, heirs, executors, administrators, devisees and assigns.

1. Definitions. Unless the context shall expressly provide otherwise.

(a) "Building" means a single building containing units as shown on the Map.

(b) "Common Expenses" means and includes expenses for maintenance, repair, operation, management, and administration; expenses declared common expenses by the provision of this Declaration; and, all sums lawfully assessed against the general common elements by the Management Committee.

(c) "Condominium" means all of the land and improvements submitted by this Declaration.

(d) "Condominium Unit" means the fee simple interest and title in and to a unit together with the undivided interest in the general common elements and the appurtenant limited common elements thereto.

(e) "General Common Elements" means and includes the land described in EXHIBIT "A", the structural components of the building; the parking spaces; and all other parts of such land and the improvements thereon necessary or convenient to its existence, maintenance, and safety which are normally and reasonably in common use, including the air above such land, all of which shall be owned, as tenants in common, by the owners of the separate units, each owner of a unit having an undivided percentage or fractional interest in such general common elements as is provided hereinafter.

(f) "Limited Common Elements" means those parts of the general common elements which are either limited to and reserved for the exclusive use of an owner of a condominium unit or are limited to and reserved for the common use of more than one but fewer than all of the condominium units owners.

(g) "Manager" means the person or firm designated by the Management Committee to manage the affairs of the condominium property.

(h) "Management Committee" means the body elected pursuant to paragraph 16 hereof, which shall govern the administration of the condominium property.

(i) "Map", "Condominium Map," or "Supplemental Map" means the Condominium Map for ~~2394~~<sup>2394</sup> Condominiums filed in the records of the office of the County Clerk of Teton County, Wyoming, on the same date that this Declaration is recorded and shall include an engineering survey of the land and all improvements thereon.

(j) "Mortgagee" means a beneficiary under or holder of a mortgage.

(k) "Owner" means a person, persons, firm, corporation, partnership, association, or other legal entity, or any combination thereof, owning a interest in one or more condominium units.

(l) "Record" means to file of record with the office of the County Clerk of Teton County, Wyoming.

(m) "Unit" means an individual air space which is contained within the perimeter walls, floors, ceilings, windows, and doors of each unit as shown on the Condominium Map to be filed for record, together with all the fixtures and improvements therein contained but not including any of the structural components of the building, if any, located within the unit.

2. Map. The Map filed for record shall show legal description of the land and a survey thereof; the location of buildings; the floor and elevation plans; the location of the units within a building, both horizontally and vertically; the thickness of the common walls between or separating the units; the location of any structural components or supporting elements of a building located within a unit; and, the unit designations and the building symbol. The Map shall contain the certificate of a registered licensed surveyor, certifying the map substantially depicts the location and the horizontal and vertical measurements of the buildings, the units, the unit designations, the dimensions of the units, the elevations of the unfinished floors and ceilings as constructed with the building symbols. In interpreting the Map the existing physical boundaries of each separate unit as constructed shall be conclusively presumed to be its boundaries. Declarant reserves the right to amend the Map, from time to time, to conform the same according to the actual location of any of the constructed improvements and to establish, vacate, and relocated easements, access road easments, and onsite parking areas.

3. Division of Property into Condominium Units. The real property described in EXHIBIT "A" and the improvements thereon are hereby divided into the following fee simple estates, each such estate consisting of the separately designated units and the undivided percentage or fractional interest in and to the general common elements appurtenant to each unit as is set forth on EXHIBIT "B", attached hereto and made part hereof.

The percentage or fractional interest of a unit owner's undivided common ownership in the common elements is measured by the total square footage of the unit. The denominator represents the total square footage of all residential units, basement areas, in the entire Condominium.

4. Limited Common Elements. A portion of the general common elements is reserved for the exclusive use of the individual owners of the respective units, and such areas are referred to as "Limited Common Element." The Limited Common Elements so reserved shall be identified on the Map. Any patio, deck or balcony which is accessible from, associated with, and which adjoins, a unit shall, without further reference thereto, be used in connection with such unit to the exclusion of the use thereof by the other owners of the general common elements, except by invitation.

5. Parking Spaces. On-site parking areas and facilities shall be under the control of the Management Committee.

6. Inseparability of a Condominium Unit. Each unit, the appurtenant undivided interest in the general common elements, and the appurtenant limited common elements shall together comprise one condominium unit, shall be inseparable, and may be conveyed, leased, devised, or encumbered only as a condominium unit.

7. Description of Condominium Unit. Every contract for the sale of a condominium unit written prior to the filing for record of the Map may legally describe a condominium unit by its identifying unit designation with further reference to the Map thereof and the Declaration to be filed for record. Subsequent to the filing of the Map and the recording of the Declaration, every deed, lease, mortgage, trust deed, will, or other instrument may legally describe a condominium unit by its identifying unit designation, followed by the name of this condominium, with further reference to the Map thereof filed for record and the recorded Declaration. Every such description shall be good and sufficient for all purposes, to sell, convey, transfer, encumber, or otherwise affect not only the unit but also the general common elements and the limited common elements appurtenant thereto. Each such description shall be construed to include a nonexclusive easement for ingress and egress to an owner's unit and use of all of the general common elements. The initial deeds conveying each condominium unit may contain reservation, exceptions, and exclusions which the Declarant deems to be consistent with and in the best interests of all condominium owners.

8. Separate Assessment and Taxation - Notice to Assessor. Declarant shall give written notice to the Assessor of the County referred to in EXHIBIT "A" of the creation of condominium ownership in this property, as is provided by law, so that each unit and the undivided interest in the general common elements appurtenant thereto

shall be deemed a parcel and subject to separate assessment and taxation.

9. Ownership - Title. A condominium unit may be held and owned in any real property tenancy relationship recognized under the laws of the State of Wyoming.

10. Non-Partitionability of General Common Elements. The general common elements shall be owned in common by all of the owners of the units and shall remain undivided, and no owner shall bring any action for partition or division of the general common elements. Nothing contained herein shall be construed as a limitation of the rights of partition of a condominium unit between the owners thereof, but such partition shall not affect any other condominium unit.

11. Use of General and Limited Common Elements. Each owner shall be entitled to exclusive ownership and possession of his unit. Each owner may use the general and limited common elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other owners.

12. Use and Occupancy. The units may be used and occupied by the owner, his family and their guests, his business invitees, and his tenants and their guests.

The Management Committee or the Manager may maintain an office in one of the units in the condominium project for the purpose of managing the condominium units within this condominium project.

13. Easements for Encroachment. If any portion of the general common elements encroaches upon a unit or units, a valid easement for the encroachment and for the maintenance of same, so long as it stands shall and does exist. If any portion of a unit encroaches upon the general common elements, or upon an adjoining unit or units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either of the general common elements or on the units for purposes of marketability of title.

14. Termination of Mechanic's Lien Rights and Indemnification. Subsequent to the recording of the Map, no labor performed or materials furnished and incorporated in a unit with the consent or at the request of the unit owner, his agent, his contractor, or subcontractor shall be the basis for filing of a lien against the unit of any other unit owner not expressly consenting to or requesting the same, or against the general common elements. Each owner shall indemnify and hold harmless each of the other owners from and against all liability arising from the claim of any lien against the unit of any other owner or against the general common elements for construction performed or for labor, materials, services, or other project incorporated in the owner's unit at such owner's request. The provisions herein contained are subject to the rights of the Management Committee or the Manager of the condominium property as set forth in paragraph 33.

15. Administration and Management.

(a) Voting. At any meeting of the owners, each Owner, including Declarant, shall be entitled to cast a number of votes as shown on EXHIBIT "B". Any Owner may attend and vote at such meeting in person, or by an agent duly appointed by an instrument in writing signed by the Owner and filed with the Management Committee or the Manager. Any designation of an agent to act for an Owner may be revoked at any time by written notice to the Management Committee or Manager, and shall be deemed revoked by the conveyance by such owner of

his condominium or when the Management Committee or the Manager shall receive actual notice of the death or judicially declared incompetence of such Owner. Where there is more than one record Owner, any or all of such persons may attend any meeting of the Owners, but it shall be necessary for those present to act unanimously in order to cast the votes to which they are entitled. Any designation of an agent to act for such persons must be signed by all such persons. Declarant shall be entitled to vote with respect to any condominium owned by Declarant.

(b) Notice. Any notice permitted or required to be delivered as provided herein may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered 24 hours after a copy of the same has been deposited in the United States Mail, postage prepaid, addressed to each such person at the address given by such person to the Management Committee or Manager for the purpose of service of such notice or to the Unit of such person if no address has been given to the Manager. Such address may be changed from time to time by notice in writing to the Management Committee of the Manager.

(c) Quorum. The presence at any meeting of Owners having a majority of the total votes shall constitute a quorum. In the event that a quorum is not present at any meeting, the Owners present, though less than a quorum, may adjourn the meeting to a later date and give notice thereof to all the Owners in accordance with the provisions of paragraph 15 (b) hereof; and at that meeting, whatever Owners are present shall constitute a quorum. Unless otherwise expressly provided in the Declaration, any action may be taken at any meeting of the Owners upon the affirmative vote of a majority of the voting power of the Owners present and voting providing that a quorum is present as provided for above.

(d) Annual Meetings. There shall be a meeting of the Owners on the \_\_\_\_\_ day of \_\_\_\_\_, of each year at \_\_\_\_\_ a.m., upon the Common Area or at such reasonable place or time (not more than sixty days before or after such date) as may be designated by written notice of the Management Committee delivered to the Owners not less than ten (10) days prior to the date fixed for said meeting. At the Annual Meeting, the Management Committee shall present an audit of the common expenses, itemizing receipts and disbursements for the preceding calendar year, the allocation thereof to each Owner, and the estimated common expenses for the coming calendar year. Within ten (10) days after the annual meeting, said statement shall be delivered to the Owners not present at said meeting.

(e) Special Meetings. Special meetings of the Owners may be called at any time for the purpose of considering matters which, by the terms of the Declaration require the approval of all or some of the Owners, or for any other reasonable purpose. Said meeting shall be called by written notice, signed by a majority of the Management Committee, or by the Owners, having one-third of the total votes and delivered not less than fifteen (15) days prior to the date fixed for said meeting. Said notices shall specify the date, time and place of the meeting, and the matters to be considered thereat.

#### 16. Management Committee.

(a) Membership. The Management Committee, which shall

govern the administration of the condominium project, shall consist of three members, two of whom shall be appointed by the Declarant and one of whom shall be elected by the Owners. Each member must be an Owner of a condominium unit. The Declarant shall have the option, at any time, to turn over to the Owners the responsibility of electing all of the members of the Management Committee.

(b) Election. Members of the Management Committee shall be elected at the Annual Meetings; provided, however, that the Owners' representative on the First Management Committee elected hereunder may be elected at a Special Meeting duly called, said representative to serve until the first Annual Meeting held thereafter. Cumulative voting is prohibited.

(c) Term. Members of the Management Committee shall serve for a term of two (2) years; provided that the member of the first Management Committee elected shall serve for a one year term. The other members shall serve for a two (2) year term. The members of the Management Committee shall serve until their respective successors are elected or appointed, as the case may be, or until their death, resignation or removal; provided that if any member ceases to be an Owner, his membership on the Management Committee shall thereupon terminate.

(d) Resignation and Removal. Any member may resign at any time by giving written notice to the Manager, and any member may be removed from membership on the Management Committee by vote of the Owners.

(e) Proceedings. If all members of the Management Committee are present, a majority vote shall be the act of the Management Committee; however, two members of the Management Committee shall constitute a quorum, and, if a quorum is present, the unanimous decision of those present shall be the act of the Management Committee. If only one member is present, no action may be taken by the Management Committee. The Management Committee shall elect a chairman to preside over its meetings and those of the Owners. Meetings of the Management Committee may be called, held, and conducted in accordance with such regulations as the Management Committee may adopt. The Management Committee may also act without a meeting by unanimous written consent of its members.

17. Certificate of Identity. There shall be recorded from time to time a Certificate of Identity containing the names and addresses of the persons then comprising the Management Committee together with the identity and address of the Manager, if any. Such Certificate shall be conclusive evidence thereof in favor of any person relying thereon in good faith regardless of time elapsed since date thereof. The first such Certificate shall be recorded on or before thirty (30) days after the initial Management Committee is elected.

18. Powers and Duties of Management Committee. The Management Committee shall have the powers and duties necessary for the administration, operation, and maintenance of the condominium project as a first class residential condominium property. The Management Committee may do all such acts and things, except as by law or by this Declaration may not be delegated to the Management Committee.

19. Other Powers and Duties. Such powers and duties of the Management Committee shall include, but shall not be limited to the

following, all of which shall be done for and in behalf of the owners of the condominium units:

(a) To administer and enforce the covenants, conditions, restrictions, easements, uses, limitations, obligations, and all other provisions set forth in this Declaration submitting the property to the provisions of the Condominium Ownership Act of the State of Wyoming.

(b) To establish, make, and enforce compliance with such rules and regulations as may be necessary for the operation, rentals, use, and occupancy of all of the condominium units with the right to amend the same from time to time. A copy of such rules and regulations shall be delivered or mailed to each member upon the adoption thereof.

(c) To incur such costs and expenses as may be necessary to keep in good order, condition, and repair all of the general and limited common elements and all items of common personal property.

(d) To insure and keep insured all of the insurable general common elements of the property in an amount equal to the maximum replacement value. To insure and keep uninsured all of the common fixtures, equipment, and personal property for the benefit of the owners of the condominium units and their first mortgagees. Further, to obtain and maintain comprehensive liability insurance covering the entire premises in amounts not less than \$100,000.00 per person and \$300,000.00 per accident and \$50,000.00 property damage.

(e) To prepare a budget for the condominium, at least annually, in order to determine the amount of the common assessments payable by the unit owners to meet the common expenses of the condominium project, and allocate and assess such common charges among the unit owners according to their respective common ownership interest in and to the general common elements, and by majority vote of the Management Committee to adjust, decrease, or increase the amount of the quarterly or monthly assessments, and remit or return any excess of assessments over expenses, working capital, sinking funds, reserve for deferred maintenance and for replacement to the owners at the end of each operating year. To levy and collect special assessments whenever in the opinion of the Management Committee it is necessary to do so in order to meet increased operating or maintenance expenses or costs, or additional capital expenses, or because of emergencies.

(f) To collect delinquent assessments by suit or otherwise and to enjoin or seek damages from an owner as is provided in the Declaration. To enforce a late charge of not more than Fifteen (\$15) Dollars per month and to collect interest at the rate of Twelve (12%) per cent per annum in connection with assessments remaining unpaid more than fifteen (15) days from due date for payment thereof, together with all expenses, including reasonable attorney's fees incurred. The Management Committee shall have the duty, right, power, and authority to prohibit use of the condominium unit by the owner thereof, his guests, tenants, lessees, and invitees in the event that any assessment made remains unpaid more than thirty (3) days from the due date for payment thereof.

(g) To protect and defend on behalf of the condominium project any part of or all of the condominium project from loss and damage by suit or otherwise.

(h) To borrow funds in order to pay for any expenditure or

outlay required pursuant to the authority granted by the provisions of this Declaration, and to execute all such instruments evidencing such indebtedness as the Management Committee may deem necessary and give security therefor. Such indebtedness shall be the several obligation of all of the owners in the same proportion as their interest in the general common elements.

(i) To enter into contracts to carry out their duties and powers.

(j) To establish a bank account or accounts for the common treasury and for all separate funds which are required or may be deemed advisable.

(k) To make repairs, additions, alterations, and improvements to the general common elements consistent with managing the condominium project in a first class manner and consistent with the best interests of the unit owners.

(l) To keep and maintain full and accurate books and records showing all of the receipts, expenses, and disbursements and to permit examination thereof at any reasonable time by each of the owners, and to cause a complete audit of the books and accounts by a certified or public accountant, once each year.

(m) To prepare and deliver annually to each owner a statement showing receipts, expenses, and disbursements since the last such statement.

(n) To meet at least once each quarter.

(o) To designate the personnel necessary for the maintenance and operation of the general and limited common elements.

(p) In general, to carry on the administration of the condominium project and to do all of those things necessary and reasonable in order to carry out the governing and the operation of the condominium property.

(q) To control and manage the use of all parking areas.

(r) To employ a manager who shall have and exercise all of the powers granted to the Management Committee by this Declaration.

20. No Waiver of Rights. The omission or failure of the Management Committee, the Manager, or any condominium unit owner to enforce the covenants, conditions, restriction, easements, uses, limitations, obligations or other provisions of this Declaration, or the house rules and regulations adopted pursuant thereto, shall not constitute or be deemed a waiver, modifications, or release thereof, and the Management Committee, the Manager, or any owner shall have the right to enforce the same thereafter.

21. Fidelity Bonds. The Management Committee may require that any or all employees of the condominium project and the Manager handling or responsible for condominium funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be a common expense.



22. Compensation. No member of the Management Committee shall receive any compensation for acting as such.

23. Accounts. The funds and expenditures of the unit owners shall be credited and charged to accounts under the following classifications as shall be appropriate, all of which expenditures shall be common expense:

(a) Current expense, which shall include all funds and expenditures within the year for which the funds are budgeted, including a reasonable allowance for contingencies and working funds, except expenditures chargeable to reserves or to additional improvements.

(b) Reserve for deferred maintenance, which shall include funds for maintenance items which occur less frequently than annually.

(c) Reserve for replacement, which shall include funds for repair or replacement required because of damage, wear, or obsolescence.

24. Indemnification. Contracts or other commitments made by the Management Committee or the Manager shall be made as agent for the unit owners, and they shall have no personal responsibility on any such contract or commitment (except as unit owners), and the liability of any unit owner on any such contract or commitment shall be limited to such proportionate share of the total liability thereof as the common interest of each unit owner bears to the aggregate common interest of all of the unit owners, except that any losses incurred because of an inability to collect such proportionate amount of the total liability owed by an owner shall be shared proportionately by the other owners.

25. Notice of Mortgages. An owner who mortgages his unit shall notify the Management Committee or the Manager, if any, giving the name and address of his mortgagee. The Management Committee or the Manager shall maintain such information in a book entitled, "Mortgages of Units."

26. Notice of Unpaid Common Assessments. The Management Committee, whenever so requested in writing by a mortgagee of a condominium unit, shall promptly report any then unpaid common assessments due from, or any other default by, the owner of a mortgaged unit.

27. Notice of Default. The Management Committee, when giving notice to a unit owner of a default, shall send a copy of such notice to each holder of a mortgage covering such condominium unit whose name and address has heretofore been furnished to the Management Committee.

28. Examination of Books. Each unit owner and each mortgagee of a condominium unit shall be permitted to examine the books of account of the condominium at reasonable times.

29. Proof of Ownership. Except for those owners who initially purchase a condominium unit from Declarant, any person on becoming an owner of a condominium unit shall furnish to the Manager of Management Committee a machine or a certified copy of the recorded instrument vesting that person with an interest or ownership in the condominium unit.

30. Registration of Mailing Address. The owner or several owners of an individual condominium unit shall have one and the same registered mailing address to be used by the Management Committee for mailing of monthly statements, notices, demands, and all other communications, and such registered address shall be the only mailing address of a person or persons, firm, corporation, partnership, association or other legal entity, or any combination thereof to be used by the Management Committee. Such registered address of a condominium unit owner or owners shall be furnished by such owners to the Manager or Management Committee within fifteen (15) days after transfer of title, or after a change of address, and such registration shall be in written form and signed by all of the owners of the condominium unit or by such persons as are authorized by law to represent the interest of each of the owners thereof. The requirements of paragraphs 29 and 30 shall be first met before an owner of a condominium unit shall be deemed in good standing and entitle to vote at any meeting of members.

31. Notice of Lien or Suit. An owner shall give notice to the Management Committee or the Manager of every lien or encumbrance upon his condominium unit, other than for taxes and special assessments, and notice of every suit or other proceeding which may affect the title to his condominium unit, and such notice shall be given in writing within five (5) days after the owner has knowledge thereof.

32. Mechanic's Lien. Each owner agrees to indemnify and to hold each of the other owners harmless from any and all claims of mechanic's lien filed against other condominium units and the appurtenant general common elements for labor, materials, services, or other products incorporated in the owner's condominium unit. In the event such a lien is filed or a suit for foreclosure of mechanic's lien is commenced, then within ten (1) days thereafter such owner shall be required to deposit with the Management Committee or the Manager cash or negotiable securities equal to one and one-half (1½) of the amount of such claim plus interest for one (1) year together with a sum equal to ten (10%) per cent of the amount of such claim but not less than One Hundred Fifty (\$150) Dollars, which latter sum may be used by the Management Committee or the Manager for any costs and expenses incurred, including attorney's fees, incurred for legal advice and counsel. Except as is otherwise provided, such sum or securities shall be held by the Management Committee or the Manager for any pending final adjudication or settlement of the claim or litigation. Disbursement of such funds or proceeds shall be made by the Management Committee or the Manager to insure payment of or on account of such final judgment or settlement. Any deficiency, including attorney's fees incurred by the Management Committee or the Manager shall be paid forthwith by the subject owner, and his failure to so pay shall entitle the Management Committee or the Manager to make such payment, and the amount thereof shall be a debt of the owner and a lien against his condominium unit which may be foreclosed as is provided in this Declaration. All advancements, payments, costs, and expenses, including attorney's fees, incurred by the Management Committee or Manager shall be forthwith reimbursed to it by such owner, and the owner shall be liable to the Management Committee or Manager for the payment of interest at the rate of Twelve (12%) per cent per annum on all such sums paid or incurred by the Management Committee or the Manager.

33. Reservation for Access - Maintenance, Repair and Emergencies. The owners shall have the irrevocable right to be exercised by the

Management Committee or the Manager, to have access to each unit from time to time during reasonable hours as may be necessary for the maintenance, repair, or replacement of any of the general common elements therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the general common elements or to another unit. Damage to the interior or any part of a unit resulting from the maintenance, repair, emergency repair, or replacement of any of the general common elements or as a result of emergency repairs within another unit, at the insistence of the Management Committee or the Manager, shall be a common expense of all of the owners; provided, however, that if such damage is the result of the misuse or negligence of a unit owner, then such unit owner shall be responsible and liable for all of such damage. All damaged improvements shall be restored substantially to the same condition in which they existed prior to the damage. All maintenance, repairs, and replacements as to the general common elements, whether located inside or outside of units (unless necessitated by the negligence or misuse of a unit owner, in which case such expense shall be charged to such unit owner), shall be the common expense of all of the owners.

34. Owner's Maintenance Responsibility. For purposes of maintenance, repair, alteration, and remodeling, an owner shall be deemed to own the interior non-supporting walls, the materials (such as, but not limited to, plaster, gypsum dry wall, paneling, wallpaper, paint, wall and floor tile and flooring, but not including the sub-flooring) making up the finished surfaces of the perimeter walls, ceiling, and floors within the unit, including unit doors and windows. The owner shall not be deemed to own lines, pipes, wires, conduits, or systems (which for brevity are herein and hereafter referred to as utilities) running through his unit which serve one or more other units except as a tenant in common with the other owners. Such utilities shall not be disturbed or relocated by an owner without the written consent and approval of the Management Committee. Such right to repair, alter, and remodel is coupled with the obligation to replace any finishing or other materials removed with similar or other types or kinds of materials. An owner shall maintain and keep in repair the interior of his own unit, including the fixtures thereof. All fixtures and equipment installed within the unit commencing at a point where the utilities enter the unit shall be maintained and kept in repair by the owner thereof. An owner shall also keep any patio, deck area, and fenced-in yard area appurtenant to his unit in a clean and sanitary condition. All other maintenance or repairs to any limited common elements, except as caused or permitted by the owner's negligence, misuse, or neglect thereof, shall be a common expense of all the owners.

35. Compliance with Provisions of Declaration. Each owner shall comply strictly with the provisions of this Declaration and the decisions and resolutions of the Management Committee adopted pursuant thereto as the same maybe lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or injunctive relief or both, and for reimbursement of all attorney's fees incurred in connection therewith which action shall be maintainable by the Management Committee or the Manager in the name of the owners on behalf of the owners or, in a proper case, by an aggrieved owner.

36. Revocation or Amendment to Declaration. This Declaration shall not be revoked unless all of the owners and all of the holders of any recorded mortgage or deed or trust covering or affecting any or all of the condominium units unanimously consent and agree to such

revocation by instrument duly recorded. This Declaration shall not be amended unless the owners representing an aggregate ownership interest of seventy-five (75%) per cent, or more, of the general common elements and all of the holders of any recorded mortgage or deed of trust cover or affecting any or all condominium units consent and agree to such amendment by instrument duly recorded; provided, however, that the percentage of the undivided interest in the general common elements appurtenant to each unit, as expressed in this Declaration, shall have a permanent character and shall not be altered without the consent of all of the unit owners expressed in an amended Declaration duly recorded; and provided, further, that revocation of this Declaration shall always require the consent of all of the owners.

37. Additions, Alterations, and Improvements of General and Limited Common Elements. There shall be no additions, alteration, or improvements of or to the general and limited common elements by the Management Committee or the Manager requiring an expenditure in excess of Three Hundred (\$300) Dollars per unit in any one calendar year without prior approval of a majority of the owners and such expenditures shall be common expense. Such limitation shall not be applicable to the replacement, repair, maintenance, or obsolescence of any general or limited common element or common personal property.

38. Assessment of Common Expenses. All owners shall be obligated to pay the assessments, either estimated or actual, imposed by the Management Committee to meet the common expenses. The assessments shall be made according to each owner's percentage or fractional interest in and to the general common elements. The limited common elements, shall be maintained as general common elements, and owners having exclusive use thereof shall not be subject to any special charges or assessments for the repair or maintenance thereof. Assessments for the estimated common expenses shall be due in advance of the first day of each calendar quarter, or more frequently as may be determined by the Management Committee or the Manager. The Management Committee or the Manager will prepare and deliver or mail to each owner a statement for the estimated or actual common expenses.

In the event the ownership of a condominium unit, title to which is derived from Declarant, commences on a day other than the first day of the assessment period, the assessment for that period shall be prorated.

The assessments made shall be based upon the cash requirements deemed to be such aggregate sum as the Manager, or if there is no Manager, then the Management Committee, shall from time to time determine is to be paid by all of the condominium unit owners, including Declarant, to provide for the payment of all estimated expenses growing out of or connected with the maintenance, repair, operation, additions, alterations, and improvements of and to the general common elements, which sum may include, but shall not be limited to, expenses of management; taxes and special assessments until separately assessed; premiums for fire insurance with extended coverage and vandalism and malicious mischief with endorsements attached issued in the amount of the maximum replacement value of all of the condominium units (including all fixtures, interior walls and partitions decorated and finished surfaces or perimeter walls, floors, and ceilings; doors, windows and other elements or materials comprising a part of the units); casualty and public liability and other insurance premiums; landscaping and care of grounds; common lighting and heating; repairs and renovations; trash and garbage collections; wages; common water and

sewer charges; legal and accounting fees; management and rental fees; expenses and liabilities incurred by the Manager or Management Committee on behalf of the unit owners under or by reason of this Declaration; for any deficit remaining from a previous period; the creation of a reasonable contingency, reserve, working capital, and sinking funds as well as other costs and expenses relating to the general common elements. The omission or failure of the Management Committee to fix the assessment for any period shall not be deemed a waiver, modification, or a release of the owners from their obligation to pay the same. The Management Committee may require each owner to deposit and maintain with the Management Committee an amount equal to one quarterly estimated assessment for use as working capital.

39. Insurance. The Manager, or if there is no Manager, then the Management Committee, shall obtain and maintain at all times insurance of the type and kind provided hereinabove and including for such other risks, of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to other condominium buildings, fixtures, equipment, and personal property, similar in construction, design, and use, issued by responsible insurance companies authorized to do business in the State of Wyoming. The insurance shall be carried in blanket policy form naming the Management Committee the insured, as attorney-in-fact for all of the condominium unit owners, which policy or policies shall identify the interest of each condominium unit owner (owner's name, unit number, building designation), and which policy or policies shall provide a standard, noncontributory mortgage clause in favor of each first mortgage. It shall also provide that the policy cannot be cancelled until after ten (10) days prior written notice is first given to each owner and each first mortgagee. The Manager, or if there is no Manager, then the Management Committee shall also obtain and maintain, to the extent obtainable, public liability insurance in such limits as may from time to time be determined, covering, each unit owner, each member of the Management Committee, and the resident Manager, if any. Such public liability coverage shall also cover cross liability claims of one insured against another and shall contain waivers of subrogation. Each owner may obtain additional insurance at his own expense for his own benefit, provided that all such policies shall contain waiver of subrogation and provided, further, that the liability of the carriers issuing insurance shall not be affected or diminished by reason of any such insurance carried by any unit owner.

Insurance coverage on the furnishings and other items or personal property belonging to an owner and casualty and public liability insurance coverage within each individual unit shall be the responsibility of the owner thereof.

40. Owner's Personal Obligation for Payment of Assessments.

The amount of the common expenses assessed against each condominium unit shall be the personal and individual debt of the owner thereof. No owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of his unit. Both the Management Committee and the Manager shall have the responsibility to take prompt action to collect any unpaid assessment which remains unpaid more than fifteen (15) days from the due date for payment thereof. In the event of default in the payment of the assessment the unit owners shall be obligated to pay interest at the rate of twelve (12%) per cent per annum on the amount of the assessment from due date thereof, together with all expenses, including attorney's fees incurred together with

such late charges as provided in this declaration. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same.

41. Assessment Lien. All sums assessed but unpaid for the share of common expenses chargeable to any condominium unit shall constitute a lien on such unit superior to all other liens and encumbrances, except only for tax and special assessments liens on the unit in favor of any assessing unit, and all sums unpaid on a first mortgage or first deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrance. To evidence such lien, the Management Committee or the Manager shall prepare a written notice of lien assessment setting forth the amount of such unpaid indebtedness, the amount of the accrued interest and late charges thereon, the name of the owner of the condominium unit and a description of the condominium unit. Such notice shall be signed by one of the Management Committee or by the Manager and shall be recorded in the office of the Clerk and Recorder of the County referred to in EXHIBIT "A". Such lien shall attach from the due date of the assessment. Such lien may be enforced by the foreclosure of the defaulting owner's condominium unit by the Management Committee in like manner as a mortgage on real property upon the recording of a notice or claim thereof. In any such proceedings the owner shall be required to pay the costs, expenses, and attorney's fees incurred for filing the lien, and in the event of foreclosure proceedings, all additional costs, all expenses and reasonable attorney's fees incurred. The owner of the condominium unit being foreclosed shall be required to pay to the Management Committee the monthly assessment for the condominium unit during the period of foreclosure, and the Management Committee shall have the power to bid on the condominium unit at foreclosure or other legal sale and to acquire and hold, lease, mortgage, vote the votes appurtenant to, convey, or otherwise deal with the same. Any encumbrance holding a lien on a condominium unit may pay, but shall not be required to pay, any unpaid common expenses payable with respect to such unit, and upon such payment encumbrancer shall have a lien on such unit for the amounts paid of the same rank as the lien of his encumbrance without the necessity of having to record a notice or claim of such lien. Upon request of a mortgagee, the Management Committee shall report to the mortgagee of a condominium unit any unpaid assessments remaining unpaid for longer than twenty five (25) days after the same are due; provided, however, that a mortgagee shall have furnished to the Manager or to the Management Committee notice of such encumbrance.

42. Liability for Common Expense Upon Transfer of Condominium Unit is Joint. Upon payment to the Manager, or if there is no Manager then to the Management Committee, of a reasonable fee not to exceed Twenty-five (\$25) Dollars, and upon the written request of any owner, mortgagee, or prospective mortgagee of a condominium unit, the Owners, by their Manager, or by the Management Committee shall issue a written statement setting forth the amount of the unpaid common expenses, if any, with respect to the subject unit, the amount of the current monthly assessment and the date that such assessment becomes due, credit for any advanced payments of common assessments for prepaid items, such as insurance premiums, but not including accumulated amounts for reserves or sinking funds, if any, which statement shall be conclusive upon the Owners in favor of all persons who rely thereon in good faith. Unless such request for a statement of indebtedness shall be complied within ten (10) days, all unpaid common expenses which become due prior to the date of making such request shall be subordinate to the rights of the person requesting such statement. The grantee of a condominium unit shall be jointly and

severally liable with the grantor for all unpaid common assessments against the latter for the unpaid common assessments up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor; provided, however, that upon payment of a reasonable fee not to exceed Twenty Five (\$25) Dollars, as is provided hereinabove, and upon written request, any such prospective grantee shall be entitled to a statement from the Manager or if there is no Manager, then from the Management Committee, setting forth the amount of the unpaid assessments, if any, with respect to the subject condominium unit, the amount of the current monthly assessment, the date that such assessment becomes due, and credits for any advanced payments of common assessments, prepaid items, such as insurance premiums, which statement shall be conclusive upon the Owners. Unless such request for such a statement shall be complied with within ten (10) days after such request, then such requesting grantee shall not be liable for, nor shall the unit conveyed be subject to a lien for any unpaid assessments against the subject unit. The provisions set forth in this paragraph shall not apply to the initial sales and conveyance of the condominium units made by Declarant, and such sales shall be free from all common expenses to the date of conveyance made or to a date as agreed upon by Declarant and Declarant's grantee.

43. Mortgaging a Condominium Unit - Priority. An owner shall have the right from time to time to mortgage or encumber his interest by deed of trust, mortgage, or other security instrument. A first mortgage shall be one which has first and paramount priority under applicable law. The owner of a condominium unit may create junior mortgages, liens, or encumbrances on the following conditions:

(1) that any such junior mortgages shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, lien for common expenses, and other obligations created by this Declaration; (2) that the mortgagee under any junior mortgage shall release, for the purpose of restoration of any improvements upon the mortgaged premises, all of his rights, title and interest in and to the proceeds under all insurance policies upon said premises by the owners. Such release shall be furnished forthwith by a junior mortgagee upon written request of one or more of the members of the Management Committee, and if such request is not granted, such release may be executed by the Management Committee as attorney-in-fact for such junior mortgagee.

44. Management Committee as Attorney-in-Fact. This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact to deal with the property upon its destruction, for repair, reconstruction, or obsolescence.

Title to any condominium unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed or other instrument of conveyance from the Declarant or from any owner or grantor shall constitute appointment of the attorney-in-fact herein provided. All of the owners irrevocably constitute and appoint the Management Committee their true and lawful attorney in their name, place and stead for the purpose of dealing with the property upon its destruction or obsolescence as is hereinafter provided. As attorney-in-fact, the Management Committee shall have full and complete authorization, rights, and power to make, execute and deliver any contract, deed, or any other instrument with respect to the interest of a condominium unit owner which are necessary and appropriate to exercise the powers herein granted. Repair and reconstruction of improvements as used in the succeeding subparagraphs means restoring improvements to substantially the same condition in which they existed prior to the damage, with each unit and the general and limited common elements having substantially the same vertical and horizontal

boundaries as before. The proceeds of any insurance collected shall be available to the Management Committee for the purpose of repair, restoration, reconstruction, or replacements, unless the owners and all first mortgagees agree not to rebuild in accordance with the provisions set forth hereinafter.

(a) In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct improvements, shall be applied by the Management Committee, as attorney-in-fact, to such reconstruction, and improvements shall be promptly repaired and reconstructed. The Management Committee shall have full authority, right and power, as attorney-in-fact, to cause the repair and restoration of the improvements.

(b) If the insurance proceeds are insufficient to repair and reconstruct improvements, and if such damage is not more than sixty (60%) per cent of all of the condominium units (the whole property), not including land, such damage or destruction shall be promptly repaired and reconstructed by the Management Committee, as attorney-in-fact, using the proceeds of insurance and the proceeds of an assessment to be made against all of the owners and their condominium units. Such deficiency assessment shall be a common expense and made pro rata according to each owner's percentage interest in the general elements and shall be due and payable within thirty (30) days after written notice thereof. The Management Committee shall have full common authority, rights, and power, as attorney-in-fact, to cause the repair or restoration of improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an owner to pay the assessment. The assessment provided for herein shall be a debt of each owner and a lien on his condominium unit and may be enforced and collected as in provided in paragraph 41. In addition thereto, the Management Committee, as attorney-in-fact shall have the absolute right and power to sell the condominium unit of any owner refusing or failing to pay such deficiency assessment within the time provided, and if not so paid, the Management Committee shall cause to be recorded a notice that the condominium unit of the delinquent owner shall be sold by the Management Committee, as attorney-in-fact, pursuant to the provisions of this paragraph. The delinquent owner shall be required to pay to the Management Committee the costs and expenses for filing the notices, interest at the rate of twelve (12%) per cent per annum on the amount of the assessment, and all reasonable attorney's fees. The proceeds derived from the sale of such condominium unit shall be used and disbursed by the Management Committee, as attorney-in-fact, in the following order:

(1) For payment of taxes and special assessments, liens in favor of any assessing entity and the customary expense of sale;

(2) For payment of the balance of the lien of any first mortgage;

(3) For payment of unpaid common expenses and all costs, expenses, and fees incurred by the Management Committee;

(4) For payment of junior liens and encumbrances in the order of and to the extent of their priority; and



(5) The balance remaining, if any, shall be paid to the condominium owner.

(c) If the insurance proceeds are insufficient to repair and reconstruct the damaged improvements, and if such damage is more than sixty (60%) per cent of all of the condominium units (the whole property), not including land, and if the owners representing an aggregate ownership interest of fifty one (51%) per cent, or more of the general common elements do not voluntarily, within one hundred (100) days thereafter, make provisions for reconstruction, which plan must have unanimous approval or consent of every first mortgagee, the Management Committee, shall forthwith record of notice setting forth such fact or facts, and upon the recording of such notice, the entire remaining premises shall be sold by the Management Committee pursuant to the provisions of this paragraph, as attorney-in-fact for all of the owners, free and clear of the provisions contained in this Declaration and the Map. The insurance settlement proceeds shall be collected by the Management Committee, and such proceeds shall be divided by the Management Committee according to each owner's percentage interest in the general common elements, and such divided proceeds shall be paid into separate accounts, each such account representing one of the condominium units. Each such account shall be in the name of the Management Committee, and shall be further identified by the condominium unit designation and the name of the owner. From each separate account the Management Committee, as attorney-in-fact, shall forthwith use and disburse the total amount (of each) of such accounts, without contribution from one account to another, toward the partial or full payment of the lien of any first mortgage against the condominium unit represented by such separate account. Each such account shall be supplemented by the apportioned amount of the proceeds obtained from the sale of the entire property. Such apportionment shall be based upon each condominium unit owner's percentage interest in the general common elements. The total funds of each account shall be used and disbursed, without contribution from one account to another, by the Management Committee, as attorney-in-fact, for the same purpose and in the same order as is provided in subparagraph (b) (1) and through (5) of this paragraph.

If the owners representing an aggregate ownership interest of fifty one (51%) per cent, or more, of the general common elements adopt a plan for reconstruction, which plan has the unanimous approval of all first mortgagees, then all of the owners shall be bound by the terms and other provisions of such plan. Any assessment made in connection with such plan shall be a common expense and made pro rata according to each owner's percentage interest in the general common elements and shall be due and payable as provided by the terms of such plan, but not sooner than thirty (30) days after written notice thereof. The Management Committee shall have full authority, right and power, as attorney-in-fact, to cause the repair or restoration of improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an owner to pay the assessments. The assessment provided for herein shall be a debt of each owner and a lien on his condominium unit and may be enforced and collected as is provided in

paragraph 41. In addition thereto, the Management Committee, as attorney-in fact, shall have the absolute right and power to sell the condominium unit of any owner refusing or failing to pay such assessment within the time provided, and if not so paid, the Management Committee shall cause to be recorded a notice that the condominium unit of the delinquent owner shall be required to pay to the Management Committee the costs and expenses for filing the notices, interest at the rate of twelve (12%) per cent per annum on the amount of the assessment and all reasonable attorney's fees. The proceeds derived from the sale of such condominium unit shall be used and disbursed by the Management Committee, as attorney-in-fact, for the same purposes and in the same order as is provided in subparagraph (b) (1) through (5) of this paragraph.

(d) The owners representing an aggregate ownership interest of eighty (80%) per cent, or more, of the general common elements may agree that the general common elements are obsolete and adopt a plan for the renewal and reconstruction, which plan has the unanimous approval of all first mortgagees of record at the time of the adoption of such plan. If a plan for the renewal, or reconstruction is adopted, notice of such plan shall be recorded, and the expense of renewal and reconstruction shall be payable by all of the owners as common expenses; provided, however, that an owner not a party to such a plan for renewal or reconstruction may give written notice to the Management Committee within fifteen (15) days after the date of adoption of such plan that such unit shall be purchased by the Management Committee for the fair market value thereof. The Management Committee shall then have thirty (30) days thereafter within which to cancel such plan. If such plan is not cancelled, the condominium unit of the requesting owner shall be purchased according to the following procedures. If such owner and the Management Committee can agree on the fair market value thereof, then such sale shall be consummated within thirty (30) days thereafter. If the parties are unable to agree, the date when either party notifies the other that he or it is unable to agree with the other shall be the "commencement date" from which all periods of time mentioned herein shall be measured. Within ten (10) days following the commencement date, each party shall nominate in writing (and give notice of such nomination to the other party) an appraiser. If either party fails to make such a nomination, the appraiser nominated shall, within five (5) days after default by the other party, appoint and associated with him another appraiser. If the two designated or selected appraisers are unable to agree, they shall appoint another appraiser to be umpire, each appraiser previously appointed shall nominate two appraisers, and from the names of the four appraisers so nominated one shall be drawn by lot by any judge of any court of record in Wyoming, and the name so drawn shall be such umpire. The nominations from whom the umpire is to be drawn by lot shall be submitted within ten (10) days of the failure of the two appraisers to agree, which, in any event, shall not be later than twenty (20) days following the appointment of the second appraiser. The decision of the appraisers as to the fair market value, or in the case of their disagreement, then such decision of the umpire, shall be final and binding. The expenses and fees of such appraisers shall be borne equally by the Management Committee and the owner. The sale shall be consummated within fifteen (15) days thereafter, and the Management Committee, as attorney-in-fact, shall disburse such proceeds for the same purposes and in the same order as is provided in subparagraph (b) (1) through (5) of this paragraph, except as modified herein.

(e) The owners representing an aggregate ownership interest eighty five (85%) per cent, or more, of the general common elements

may agree that the condominium units are obsolete and that the same should be sold. Such plan must have the unanimous approval of every first mortgagee. In such instance, the Management Committee shall forthwith record of notice setting forth such fact or facts, and upon the recording of such notice, the entire premises shall be sold by the Management Committee, as attorney-in-fact, for all of the owners, free and clear of the provisions contained in this Declaration and the Map. The sales proceeds shall be apportioned between the owners on the basis of each owner's percentage interest in the general common elements, and such apportioned proceeds shall be paid into separate accounts, each such account representing one condominium unit. Each such account shall be in the name of the Management Committee, and shall be further identified by the condominium unit designation and the name of the owner. From each separate account the Management Committee, as attorney-in-fact, shall use and disburse the total amount (of each) of such accounts without contribution from one account to another, for the same purposes and in the same order as is provided in subparagraph (b) (1) through (5) of this paragraph.

45. Personal Property for Common Use. The Management Committee, as attorney-in-fact, for all of the owners, may acquire and hold for the use and benefit of all of the condominium unit owners, real, tangible, and intangible personal property and may dispose of the same by sale or otherwise. The beneficial interest in any such property shall be owned by all of the condominium unit owners in the same proportion as their respective interests in the general common elements, and such interest therein shall not be transferable except with a conveyance of a condominium unit. A conveyance of a condominium unit shall transfer to the grantee ownership of the grantor's beneficial interest in such property without any reference thereto in the deed. Each owner may use such property in accordance with the purpose for which it is intended without hindering or encroaching upon the lawful rights of the other owners. The transfer of title to a condominium unit under foreclosure shall entitle the purchaser to the beneficial interest in such personal property associated with the foreclosed condominium unit.

46. Period of Condominium Ownership. The separate condominium estates created by this Declaration and the Map shall continue until this Declaration is revoked or terminated in the manner and as is provided for in this Declaration.

47. General Reservations. Declarant reserves the right to establish easements, reservations, exceptions, and exclusions consistent with the condominium ownership of the condominium project and for the best interests of the condominium unit owners and the Management Committee in order to serve the entire condominium project.

48. General.

(a) If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase, or word, or the application thereof in any circumstances be invalidated, such invalidity shall not affect the validity of the remainder of the Declaration, and the application of any such provisions, paragraph, sentence, clause, phrase,

or word in any other circumstances shall not be affected thereby.

(b) The provisions of this Declaration shall be in addition to and supplemental to the Condominium Ownership Act of the State of Wyoming and to all other provisions of law.

(c) The whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

IN WITNESS WHEREOF, Declarant has duly executed this Declaration this \_\_\_\_\_ day of \_\_\_\_\_, 1979.

BROADWAY APARTMENTS, INC. a Wyoming Corporation

by Herman Gerres  
Herman Gerres - President

Attest:  
Augusta L. Gerres  
Augusta L. Gerres--Secretary

STATE OF WYOMING     )  
                                  ) ss.  
COUNTY OF TETON     )

The foregoing Condominium Declaration for Broadway Condominiums, Inc. was acknowledged before me by Herman Gerres, President, and Augusta L. Gerres, Secretary this \_\_\_\_\_ day of \_\_\_\_\_, 1979.

Witness my hand and official seal.

(Seal)

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

EXHIBIT A

The west 60 feet of Lot 3, Block 2 of the Van Vleck Plat of the Town of Jackson of record in the Office of the Clerk of Teton County as Plat No. 116, a subdivision of the NE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 34, T41N, R116W, 6th P.M., Wyoming.

EXHIBIT B

<u>Unit #</u>	<u>Percentage Ownership in the General Common Elements</u>	<u>Votes</u>
1-1	16.67%	1
1-2	16.67%	1
1-3	16.67%	1
2-1	16.67%	1
2-2	16.67%	1
2-3	16.67%	1