

DECLARATION AND BY-LAWS OF  
TOWNHOUSE CONDOMINIUM

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PLATTED

State of Montana }  
County of Gallatin } ss.  
Filed June 8, 1977  
at 4:30 P.M., and  
Recorded in book 37 of  
MISCELLANEOUS Page 2035

CARL L. STUCKY

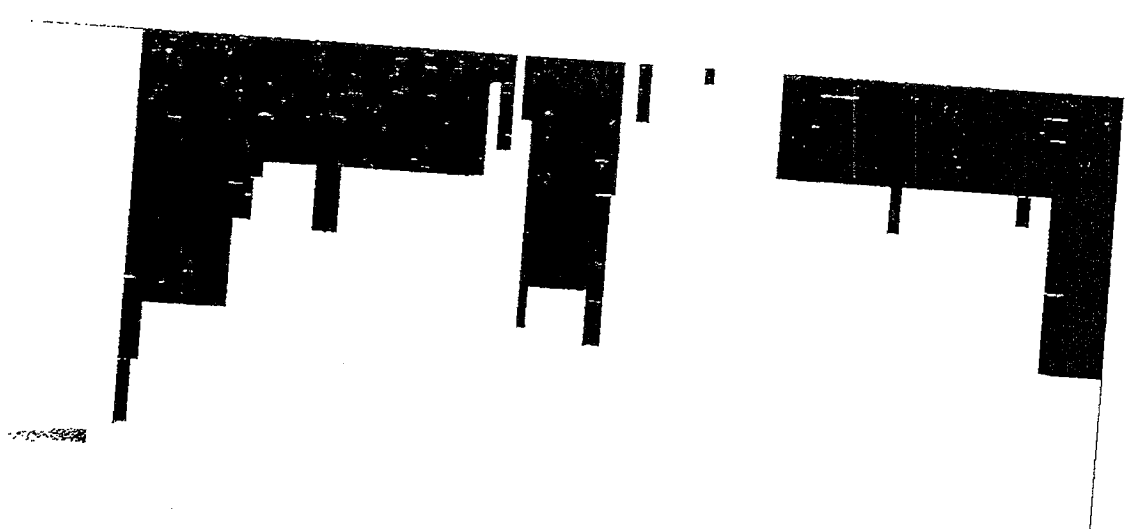
County Clerk & Recorder

By *Lucille D. Bridges*  
Deputy

Fee \$ 48.00

Rt: Mark A. Bryan

FLOOR AND SITE PLANS IN FILE



CERTIFICATE

The undersigned being the duly authorized agent of the Department of Revenue of the State of Montana within the County of Gallatin herewith executes the following certificate relating to the Townhouse Condominium situated on Lot 10 of Moes Subdivision to the City of Bozeman, County of Gallatin, State of Montana, to-wit:

1. That the name the Townhouse Condominium is not the same as, similar to or pronounced the same as a word in the name of any other property or subdivision within Gallatin County except for the word "Condominium", and
2. All taxes and assessments due and payable for the said Townhouse Condominium have been paid to date.

Dated: June 8, 1977

  
RAMON S. WHITE  
County Assessor

FILM 37 MEX 2037

CERTIFICATE

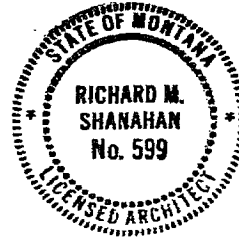
The undersigned, being a duly registered professional Architect in the State of Montana, herewith certifies the following:

That the floorplans for the Townhouse Condominium situated on Lot 10 of Moes Subdivision to the City of Bozeman, County of Gallatin, State of Montana, as duly filed with the Declaration and By-Laws thereof, fully and accurately depict the layout, location, unit designation and dimensions as built of the Townhouse Condominium.

Dated: 6-6-77



RICHARD SHANAHAN  
Registered Professional Architect  
Number: 599



DECLARATION FOR  
TOWNHOUSE CONDOMINIUM

This Declaration is hereby made and entered into this 6<sup>th</sup> day of June, 1977, by E & F SERVICES, INC., of 17 Sunset Heights, Bozeman, Montana - 59715, (hereinafter referred to as the "declarant"), whereby lands and property hereinafter described are submitted to the Montana Unit Ownership Act pursuant to Chapter 23 of Title 67, Revised Codes of Montana, 1947, as amended.

The property subject to this Declaration shall be known as The Townhouse Condominium, (hereinafter referred to as the "condominium"). The address of the condominium is The Townhouse Condominium, 307 South 15 th Street, Bozeman, Montana - 59715.

I. DEFINITIONS

Unless the context expressly provides otherwise, the following definitions shall pertain throughout this Declaration and in the interpretation thereof:

1. **Aggregate Voting:** shall mean the entire number of votes or persons present or available to vote in person or by proxy in a particular circumstance.
2. **Association or Association of Unit Owners:** means all of the Unit Owners acting as a group and in accordance with duly adopted By-Laws and this Declaration.
3. **Board or Board of Directors:** shall mean the Board of Directors of the Association as more particularly defined in the By-Laws.
4. **Building:** means the building(s) containing the condominium units.
5. **By-Laws:** means the By-Laws promulgated by the Association under this Declaration and the Unit Ownership Act.
6. **Common Elements:** means both general common elements and limited common elements.
  - a. **General Common Elements:** includes all those elements which are for the use of all residents and guests of residents of the Townhouse Condominium. Specifically included are: grounds surrounding the building, parking areas, driveways, the land on which the building is situated, paths and walkways, footings, foundations, framework, columns, trusses, supports, roof and other structural components of the building, exterior walls, gutters and vertical roof drains, electrical, gas, telephone, hot and cold water and sewer lines and connections, and the hot water furnace serving all of the units, landscaping, plants and other materials and improvements separate from and outside of the building containing the units, parking area, elements necessary for the safety, maintenance and existence of the condominium in which each Unit Owner shall have his designated percentage of interest, as set forth in paragraph IV below.
  - b. **Limited Common Elements:** as used in this Declaration shall mean those common elements which are reserved for the use of fewer than all of the residents and guests of residents of the Townhouse Condominium. Specifically, as to any given Unit Owner or Owners, limited common elements shall mean the following common

elements which are located within or affixed to the building containing his Unit in which these elements are located:

Flues, chimneys, stairs to the units, ducts, cables, conduits, public utility lines, water, sewer, electrical, gas, cable television lines and hot and cold water pipes, (all such utility pipes and lines are limited common elements where they service only one or two units; where they service all units they shall be general common elements), entrances, patios, porches, decks, hot water tanks, washer and dryer hook-ups, and fixtures or other portions of the building, servicing only a particular unit or less than all of the units. The percentage of the units in the limited common elements shall be computed by determining the number of units that have use of the limited common elements and taking the value of each such unit and dividing it by the value of the unit or all such units making use of the particular limited common element. Such values shall be the same as the values used to compute the percentage of interest of the unit owners in the general common elements and shall be the value of the units at the date of filing this Declaration and which are set forth in this Declaration.

7. **Common Expenses:** means expenses of administration, maintenance, repair or replacement of general common elements, expenses agreed upon by the Association of all Unit Owners, and expenses declared common by the Unit Ownership Act.
8. **Declaration:** means this document and all parts attached thereto or incorporated by reference.
9. **Limited Expenses:** means the expenses attributable to the maintenance, repair and replacement of limited common elements.
10. **Manager:** means the manager, the Board of Directors, management corporation or any other person or group of persons retained or appointed by the Board, or by the Association of Unit Owners for the purpose of conducting the day-to-day operations of the Townhouse Condominium.
11. **Property:** means all the land, buildings, improvements and structures thereon and all easements, rights and appurtenances belonging thereto, which are herewith submitted to the Unit Ownership Act.
12. **Record Officer:** means the county officer charged with the duty of filing and recording the deeds, mortgages and all other instruments and documents relating to this Declaration and the property to which it is subject.
13. **Unit:** shall be the separate condominium units of the Townhouse Condominium and is a parcel of real property including and containing one or more rooms occupying one or more floors or a part or parts thereof, intended for any type of independent use, and with a direct exit to a street or highway or to common elements leading to a street or highway.
14. **Unit Designation:** is the combination of letter, numbers and words which identify the designated units.
15. **Unit Owner or Owner:** means the person or persons owning a fee simple absolute, under the laws of the State of Montana, in one or more units of the Townhouse Condominium.

II. REAL ESTATE

1. Description. The real property which is by this Declaration submitted to the Montana Unit Ownership Act is described as:

Lot 10 of Moss Subdivision to the City of Bozeman, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder of Gallatin County, Montana.

The condominium units consist of four (4) separate units numbered 1 through 4 consecutively. The provisions of this Declaration and the By-Laws shall be construed to be covenants running with the land including every unit and shall be binding upon the units owner, their heirs, successors, personal representatives and assigns for as long as this condominium declaration and By-Laws are in effect.

2. Condominium Units: Each Unit, together with the appurtenant undivided interest in the common elements of the Townhouse Condominium shall together comprise one condominium unit, shall be inseparable, and may be conveyed, leased, rented, devised or encumbered as a condominium unit as a fee simple interest in a parcel of real property.
3. Encroachments: If any portion of the general common elements or limited 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 limited 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 on the general common elements, the limited common elements, or on the Units for purposes of marketability of title.
4. Building: The Units comprising the condominium are contained in one (1) building. The building contains two floors including a ground floor and one upper floor.
5. Unit Boundaries: Each Unit shall include the part of the building containing the Unit that lies within the boundaries of the Unit, which boundaries are as follows:
  - a. Upper and Lower Boundaries: The upper and lower boundaries of the Unit shall be the following boundaries extended to an intersection with the perimetrical boundaries:
    - (1) Upper Boundary: The plane of the underside of the roof trusses on the second floor each Unit, not including the drywall or gypsum board nailed to such trusses.
    - (2) Lower Boundary: The surface of the floor joists of each unit.
  - b. Perimetrical Boundaries: The perimetrical boundaries of the Unit shall be the following boundaries extended to an intersection with the upper and lower boundaries:
    - (1) Exterior Building Walls: The intersecting vertical planes adjacent to and including the exterior of the interior sheathing or wall covering of the outside walls bounding a Unit. (The outside surface of the interior drywall on the outside walls).
    - (2) Interior Building Walls: The vertical planes of the centerline of the walls between the Units extended to intersections with other perimetrical boundaries.

6. **Construction Materials:** The principal material of construction of the Units are concrete for the foundations, footings, slabs and basement, wood for the framing, structural and finish work, sheetrock and plywood for the interior, carpet, wood or tile for the floors, spruce siding for exterior wall surfaces, and asphalt on the roof of the building.

III. BASEMENT, COMMON ELEMENT - INTERIOR REMODELING

1. **Common Element Easements:** A nonexclusive right of ingress and egress and support through the general common elements is appurtenant to each Unit and all the general common elements are subject to such rights.
2. **Interior Remodeling:** Each Unit Owner shall have the exclusive right to paint, repaint, tile, wax, paper, panel, carpet, brick or otherwise maintain, refinish and decorate the inner surfaces of the walls, ceilings, floors, windows and doors bounding his own Unit, and the interior thereof, so long as such owner does not affect the structural integrity of the building in which his Unit is located.

IV. OWNERSHIP AND VOTING - EXHIBITS - USE

1. **Percentage of Interest:** Each Unit Owner shall be entitled to the exclusive ownership, use and possession of his Unit and the percentage of the interest of each Unit Owner in the common elements as set forth below. Each Unit Owner shall have a percentage of undivided interest in the general common elements of the Townhouse Condominium. Such percentage represents his ownership interest in the general common elements, his liability for common expenses, and the voting interest of the Unit Owner or Owners in all matters concerning the Association of Unit Owners. The percentage of interest in the general common elements for the respective owners shall be computed by taking the value of each Unit at the date of filing this Declaration and dividing it by the then combined value of all of the units having an interest in the general common elements of the condominium. Such percentage of interest and value for each of the Units in the condominium shall be according to the percentages set forth below:

<u>UNIT NO.</u>	<u>VALUE</u>	<u>PERCENTAGE OF INTEREST IN GENERAL COMMON ELEMENTS</u>
1	\$30,000.00	25%
2	\$30,000.00	25%
3	\$30,000.00	25%
4	\$30,000.00	25%

2. **Floor Plans and Exhibits:** The Townhouse Condominium consists of the real property described above, and a total of four (4) separate Condominium Units as shown on the floor plans. For identification and descriptive purposes the following Exhibit is attached and by reference hereto incorporated into and made a part of this Declaration:

Exhibit "A": Showing the floor plans of each of the Units and the Site Plan of the Townhouse Condominium, the area of each, the dimensions and the designation for each Unit.

3. **Use:** The Units and common elements shall be occupied and used as follows:
  - a. No part of the property shall be used for other than residential purposes. Each family unit shall be used as a residence for a single family and for no other purpose, except that an Owner may use a portion of his Unit for an office or studio provided that the activities therein shall not interfere with the quiet

enjoyment or comfort of any other Owner or occupant and provided further that in no event shall any part of the property be used as a school or music studio. Nothing contained herein shall prevent an owner of a unit from renting or leasing their unit to third parties for residential purposes.

b. There shall be no obstruction of the common elements nor shall anything be stored in or on the common elements without prior consent of the Association. Each owner shall be obligated to maintain and keep in good order and repair his own family Unit.

c. Nothing shall be done or kept in any Unit or in the common elements which will increase the rate of insurance of the building, or contents thereof applicable for residential use, without the prior written consent of the Association. No owner shall permit anything to be done or kept in his Unit or in the common elements which will result in the cancellation of insurance on the building, or contents thereof, or which would be in violation of any law. No waste will be permitted in the common elements.

d. Owners shall not cause or permit anything to be hung or displayed on the outside of windows or placed on the outside walls of a building and no sign, awning, canopy, radio or television antenna shall be affixed to or placed upon the exterior walls or roof or any part thereof, without the prior written consent of the Association.

e. No rabbits, livestock, poultry or other animals of any kind shall be raised, bred or kept in any Unit, except that dogs, cats or other household pets may be kept in Units, subject to rules and regulations adopted by the Association, provided that they are not kept, bred or maintained for any commercial purpose.

f. No nuisances shall be allowed upon the property nor shall any use or practice be allowed which is a source of annoyance to residents of the Condominium or which interferes with the peaceful possession and proper use of the property by its residents. No immoral, improper, offensive or unlawful use shall be made of the property nor any part thereof and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

g. Nothing shall be done in any family Unit or in, on or to the common elements which will impair the structural integrity of the building or which would structurally change the building, except as is otherwise provided herein.

h. No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise shall be conducted, maintained or permitted on any part of the property, nor shall any "for sale" or "for rent" signs or other window displays or advertising be maintained or permitted on any part of the property or in any Unit therein, except that declarant and its agents reserve the right to place "for sale" or "for rent" signs on any unsold or unoccupied Units, and the right is hereby given to any mortgagee or trust indenture beneficiary who may become the owner of any Unit, to place such sign on any Unit owned by such mortgagee or beneficiary.

i. Nothing shall be altered or constructed in or removed from the common elements, except upon the written consent of the Association.



4. **Exclusive Ownership:** Each Owner or Owners shall be entitled to exclusive ownership and possession of their Unit. Such Owners may use the general and limited common elements in accordance with the purposes for which they are intended and as they may otherwise agree between themselves, so long as they do not hinder or encroach upon the lawful rights of other Unit Owners.

V. THE ASSOCIATION

1. **Function:** There shall be formed an Association of Unit Owners. Membership shall be limited to Unit Owners as defined in this Declaration. It shall be the function of the Association to:
  - a. Adopt By-Laws for the governance of the Association.
  - b. Make provisions for the general management of the Condominium.
  - c. Levy assessments as provided for in this Declaration, the By-Laws, and the Unit Ownership Act.
  - d. Adopt and implement a policy for the affairs of the Condominium.
  - e. Enter into contracts to hire personnel for the management of the affairs of the Association and the maintenance and repair of the common areas.
2. **Vote:** On all matters, unless excluded by this Declaration, to be decided by the Association, each Unit Owner shall have a vote equal to his percentage of interest in the general common elements. An owner of a condominium Unit, upon becoming an Owner, shall be a member of the Association and remain a member for the period of his unit ownership. Except as otherwise provided in this Declaration or the By-Laws, a majority of the aggregate interest present at any meeting or by proxy shall be sufficient to act on matters brought before the Association. Meetings of the Association shall only be conducted when a quorum is present, as defined in the Association By-Laws.
3. **Failure to Comply:** Each owner shall comply strictly with the provisions of this Declaration, the By-Laws of the Association and the rules, regulations, decisions and resolutions of the Association adopted pursuant thereto as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief or both, and for reimbursement of all costs, including attorneys fees incurred in connection therewith, which action shall be maintainable by the Manager in the name of the Association, on behalf of the owner or by an aggrieved owner where there has been a failure of the Association to bring such action.
4. **Payment of Assessments - When Due:** All assessments shall be due three (3) days from the date of mailing of such assessment following the meeting at which time assessments are levied by the Association and may be payable in installments monthly, quarterly or annually at the option of the Board. The amount of the common expenses assessed against each condominium Unit and the amount of limited 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 this contribution toward the common expenses and the limited expenses by waiver of the use or enjoyment of any of the general common elements or limited common elements or by abandonment of his Unit. All assessments which are not paid within thirty (30) days from the date they are due and payable become delinquent and are subject to interest and penalty charges. The Association or Manager shall have the responsibility of taking prompt action to collect any unpaid assessment which becomes delinquent. In the event of delinquency in the payment of the assessment,

the Unit Owner shall be obligated to pay interest at a rate to be determined by the Board on the amount of the assessment from the due date thereof, together with such late charges as provided in the By-Laws of the Association. Suit to recover a money judgment for unpaid common expenses and limited expenses shall be maintainable without foreclosing or waiving the lien securing the same.

a. Common expenses and common profits, if any, and limited common expenses of the Townhouse Condominium shall be distributed among, and charged to the Unit Owners according to the percentage of interest of each in the common elements.

b. Except as otherwise limited in this Declaration, each Unit Owner shall have the right to use the common elements for all purposes incident to the use of and occupancy of the respective family unit as a residence, and such other incidental uses permitted by this Declaration, which rights shall be appurtenant to and run with the family unit.

5. Levying Assessments - When Made - Purposes: The Association of Unit Owners shall levy assessments upon the Unit Owners in the following manner and for the following reasons:

a. Assessments shall be made as a part of the regular, annual business meeting of the Association as provided in the By-Laws of the Association or assessments can be made for special purposes at any other regular or special meeting thereof. All assessments shall be fixed by resolution of the Board of Directors. Notice of the assessment, whether regular or special, the amount thereof, and the purpose for which it is made, including an annual budget for expenditures and operation, for regular annual assessments, shall be served on all Unit Owners affected, by mailing a copy of the notice to said Owners at their address of record at least ten (10) days prior to the date for such meeting.

b. Assessments shall be made for the repair, insurance, replacement, general maintenance, management and administration of common elements, fees, costs and expenses of the manager, taxes for common areas if any, and assessments for the Unit Owners percentage share of any Special Improvement District Assessments. Assessments shall be based upon and computed by using the percentage of interest that each Unit Owner has in relation to the common elements.

c. Assessments may also be made for the payment of limited common element expenses such that the Unit Owners are chargeable only for the expenses relating to their respective units or building. Unit Owners shall share in the payment for limited expenses for the repair, maintenance and replacement of limited common elements of their respective Units in accordance with the percentage the condominium unit or units have in the limited common element for which the assessment is being made. If only one Unit is associated with the limited common elements involved, then the entire cost of such repair, maintenance or replacement shall be borne by that Unit.

d. Assessments may also be made for any purpose contemplated by this Declaration and for any purpose set out in the Montana Unit Ownership Act.

#### VI. DECLARANTS' RIGHT TO CHANGE

The declarant, E & E SERVICES, INC., reserves the right to change the interior design and arrangement of all Units, so long as the declarant owns the Units so altered. No such change shall increase the number of Units or alter the boundary of the general common elements without an amendment of this Declaration.

VII. AMENDMENT

Amendment of this Declaration shall be made in the following manner:

At any regular or special meeting of the Association of Unit Owners such amendment may be proposed as a resolution by any Unit Owner. Upon adoption of the resolution by a majority vote of those present the amendment shall be made subject for consideration at the next succeeding of the Association with notice thereof, together with a copy of the amendment to be furnish to each owner no later than thirty (30) days in advance of such meeting. At such meeting, the amendment shall be approved upon receiving the favorable vote of seventy-five percent (75%) of the Unit Owners, If so approved, it shall be the responsibility of the Association to file the amendment with the Clerk and Recorder's Office of Gallatin County, Montana.

VIII. CHANGES, REPAIRS AND LIENS

1. Alterations by Unit Owners: The interior plan of a Unit may be changed by its owner with the exception of the bearing walls which may not be moved. No Units may be subdivided. No change in the boundaries of Units shall encroach upon the boundaries of the common elements except by amendment to this Declaration. Boundary walls must be equal in quality of design and construction to the existing boundary walls. A change in the boundaries between Units shall be set forth in an amendment to this Declaration. In addition to compliance with the provisions of Paragraph VII above, such an amendment must further set forth and contain plans to the Units concerned showing the Units after the change in boundaries, and attached to the amendment as exhibits. Such an amendment shall be signed and acknowledged by the owners of the Units concerned; as well as those owners with an interest in any common elements affected, together with words of conveyance in the amendment conveying interests acquired in the Units or common elements by such change. The amendment shall also be approved by the Board of Directors of the Association and signed and acknowledged by all lienors and mortgagees of the Units concerned.
2. Maintenance by Unit Owner: An Owner shall maintain and keep in repair the interior of his own Unit and the fixtures thereof. All fixtures, utility lines and equipment installed in 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 do no act nor any work that will impair the structural soundness or integrity of the building or impair any easement. An Owner shall also keep all areas and limited common elements appurtenant to his Unit in a clean and sanitary condition. The right of each Owner to repair, alter, and remodel is coupled with the obligation to replace any finishing or other materials removed with similar types or kinds of materials. No acts of alteration, repairing or remodeling by any Unit Owner shall impair in any way the structural integrity of the Units adjoining Owners or the structural integrity of limited common elements or general common elements.
3. Exterior Alterations: No Owner may change, alter or remodel the exterior of his Unit without the prior written approval of the Board of Directors of the Association.
4. Liens for Alterations: Labor performed and materials furnished and incorporated into a Unit with the consent of or at the request of the Unit Owner, his agent, his contractor or subcontractor shall be the basis for the filing of a lien against the Unit or the Unit Owner consenting to or requesting the same. Each Unit 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 or against the general common elements or limited common elements for construction performed or for labor, materials, services or other products incorporated in the Owner's Unit at such Owner's request.

5. **Liens for Assessments:** All sums assessed but unpaid for the share of general common expenses and limited 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 assessment liens on the Unit in favor of any assessing authority, and all sums unpaid on a first mortgage or a first trust indenture of record, including all unpaid obligatory sums as may be provided by such encumbrance. To evidence such lien, the Manager shall prepare a written notice of lien assessment setting forth the amount of such unpaid indebtedness, the amount of 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 and verified by one of the officers of the Association or by the Manager, or his authorized agent, shall be recorded in the office of the Clerk and Recorder of Gallatin County, Montana. Such lien shall attach from the date of recording such notice. Such lien may be enforced by the foreclosure of the defaulting Owner's Condominium Unit by the Association in like manner as a mortgage on real property upon the recording of a notice or claim thereof. In any such proceeding the Owner may be required to pay the costs, expenses and attorney's fees incurred in filing a lien, and in the event of foreclosure proceedings, additional costs, expenses and attorney's fees incurred.
  
6. **Foreclosure:** The Association shall have the power to bid on the Condominium Unit at foreclosure or other legal sale and to acquire and hold, lease, mortgage and vote the votes appurtenant to, convey or otherwise deal with the same. Any encumberer holding a lien on a Condominium Unit may pay, but shall not be required to pay, any unpaid general common expenses or limited common expenses payable with respect to any such Unit, and upon such payment such encumberer shall have a lien on said Unit for the amounts paid of the same rank as the lien of his encumbrance without the necessity of having to file a notice or claim of such lien.
  
7. **Insurance:**
  - A. All insurance policies upon the condominium property shall be purchased by the Association and shall be issued by an insurance company authorized to do business in Montana.
    - a. **Named Insured - Personal Property:** The named insured shall be the Association individually as agent for the Unit Owners without naming them. Such policies shall provide that payments for losses thereunder by the insurer shall be paid to the insurance Trustee hereinafter designated, and all policies and endorsements thereon shall be deposited with the insurance Trustee. Unit Owners may obtain insurance coverage at their own expense upon their own personal property and for their personal liability and living expense.
    - b. **Copies to Mortgagees:** One copy of each insurance policy and of all endorsements thereon shall be furnished by the Association to each mortgagee of a Unit Owner on request.
  - B. **Coverage:**
    - a. **Casualty:** All buildings and improvements upon the land shall be insured to an amount equal to the maximum insurable replacement and all personal property included in the common elements shall be insured for its value, all as determined annually by the Board of Directors of the Association, but subject to such deductible clauses as are required in order to obtain coverage at reasonable costs. Such coverage shall afford protection against:

- (1) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement; and
- (2) Such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the buildings on the land.

The policies shall state whether the following items are included within the coverage in order that Unit Owners may insure themselves if the items are not insured by the Association: airhandling equipment for space cooling and heating; service equipment, such as dishwasher, disposal, laundry, fireplaces, refrigerator, stove, oven, whether or not such items are built-in equipment; interior fixtures such as electrical and plumbing fixtures; floor coverings; inside paint and other inside wall finishings.

b. Public Liability: In such amounts and with such coverage as shall be required by the Board of Directors of the Association, including but not limited to hired automobile and non-owned automobile coverage, if applicable, and with cross-liability endorsement to cover liabilities of the Unit Owners as a group to a Unit Owner.

c. Other Insurance: Such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable and as may be required by the Federal and State Laws.

C. Premiums: Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense, except that the amount of increase in the premium occasioned by use for other than a residence, misuse, occupancy or abandonment of a Unit or its appurtenances or of the common elements by a Unit Owner shall be assessed against that Owner. Not less than ten (10) days prior to the date when a premium is due, evidence of such payment shall be furnished by the Association to each mortgagee listed in the roster of mortgagees.

D. Insurance Trustee: All insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their mortgagees as their interests may appear, and shall provide that all proceeds covering property losses shall be paid to such bank in Montana with trust powers as may be designated as insurance trustee by the Board of Directors of the Association, which trustee is herein referred to as the insurance trustee. The insurance trustee shall not be liable for payment of premiums nor for the renewal or the sufficiency of policies nor for the failure to collect any insurance proceeds. The duty of the insurance trustee shall be to receive such proceeds as are paid and hold the same in trust for the purposes elsewhere stated in this instrument and for the benefit of the Unit Owners and their mortgagees in the following shares, but which shares need not be set forth in the records of the insurance trustee.

a. Unit Owners: An undivided share for each Unit Owner, such share being the same as the undivided share in the common elements appurtenant to his Unit.

b. Mortgagees: In the event a mortgagee endorsement has been issued as to a Unit, the share of the Unit Owner shall be held in Trust for the mortgagee and the Unit Owner as their interests may appear, provided however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions thereof made to a Unit Owner and mortgagee pursuant to the provisions of this Declaration.

**E. Distribution of Proceeds:** Proceeds of insurance policies received by the insurance trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

- a. **Expense of the Trust:** All expenses of the insurance trustee shall be first paid or provision made therefore.
- b. **Reconstruction or Repair:** If the damage for which the proceeds are paid is to be repaired or reconstructed by the Association, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided.
- c. **Certificate:** In making distribution to Unit Owners and their mortgagees, the insurance trustee may rely upon a certificate of the Association made by its representative or manager as to the names of the Unit Owners and their respective shares of the distribution.

**F. Association as Agent:** The Association is irrevocably appointed agent for each Unit Owner and for each Owner of a mortgage or other lien upon a unit and for each Owner of any other interest in the condominium property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

**G. Benefit to Mortgagees:** Certain provisions in this paragraph entitled "Insurance" are for the benefit of mortgagees of condominium parcels, and all such provisions are covenants for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

**8. Reconstruction.**

**A. Repair after Casualty:** If any part of the condominium property shall be damaged by casualty, whether or not it shall be reconstructed or repaired, shall be determined in the following manner:

- a. **Lesser Damage:** If a Unit or Units are found by the Board of Directors of the Association to be tenantable after the casualty, the damaged property shall be repaired.
- b. If a Unit or Units are found by the Board of Directors to be not tenantable after the casualty, the damaged property will be reconstructed or rebuilt.
- c. **Certificate:** The insurance trustee may rely upon a certificate of the Association made by its Chairman or President and Secretary to determine whether or not the damaged property is to be reconstructed or repaired.

**B. Plans and Specifications:** Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original improvements, or if not, then according to plans and specifications approved by not less than seventy-five percent (75%) of the Unit Owners, including the Owners of all Units the plans for which are to be altered. Any such reconstruction not in accordance with the original plans and specifications must be set forth in an amendment to the Declaration, which amendment shall be prepared and filed of record in accordance with the provisions of such amended filing, more particularly set forth in Paragraph VII and Paragraph VIII, sub-paragraph 1, hereinabove.

**C. Responsibility:** The responsibility for reconstruction or repair after casualty shall be the same as for maintenance and repair in the condominium property.

D. Assessments: If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction or repair for which the Association is responsible, or if at any time during such reconstruction or repair, or upon completion of such reconstruction or repair, the funds for the payment of the costs thereof are insufficient, assessments shall be made against all Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such assessment shall be in proportion to the Owner's percentage of interest in the general common elements.

E. Construction Funds: The funds for payment of costs of reconstruction or repair after casualty, which shall consist of proceeds of insurance held by the insurance trustee and funds collected by the Association from assessments against Unit Owners, shall be disbursed in the sound discretion of the trustee and according to the contract of reconstruction or repair, which contract must have the approval of the Board of the Unit Owners involved.

Surplus: It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from the insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be paid to the Association for the use and benefit of the Unit Owners.

#### IX. REMOVAL OR PARTITION - SUBDIVISION

The Townhouse Condominium may only be removed from condominium ownership, and may only be partitioned or sold, upon compliance with each of the conditions hereof:

- a. The Board of Directors of the Association must approve the plan of removal, partition or sale, including the details of how any partition or sale and the distribution of property or funds shall be accomplished.
- b. The plan of removal, partition or sale must be approved as provided in the Montana Unit Ownership Act. Upon obtaining such approval the Board of the Association shall be empowered to implement and carry out the removal or partition plan.
- c. No Unit may be divided or subdivided into a smaller unit, nor any portion thereof sold or otherwise transferred, except as provided above.

#### X. INTERPRETATION

The provisions of this Declaration and of the By-Laws to be promulgated and recorded herewith, shall be liberally construed to effectuate the purposes of this Declaration and By-Laws and to create a building or buildings subject to and under the provisions of the Unit Ownership Act.

#### XI. REMEDIES

All remedies provided for in this Declaration and By-Laws shall not be exclusive of any other remedies which may now be, or are hereafter, available to the parties hereto as provided for by law.

#### XII. SEVERABILITY

The provisions hereof shall be deemed independent and severable and the invalidity or partial invalidity or unenforceability of any one or more provisions shall not affect the validity or enforceability of any other provision hereof.

XIII. MISCELLANEOUS

1. **Utility and Structural Easements:** Easements are reserved through the condominium property as may be required for utility services, including water, sewer, power, telephone, natural gas and cable television, in order to serve the condominium adequately, provided however, such easements through the property or through a Unit shall be only according to the plans and specifications for the Unit building, as set forth in the recorded plat, or as the building is constructed, unless approved in writing by the Unit Owner.

Every portion of a family unit which contributes to the structural support of the building shall be burdened with an easement of structural support for the benefit of the common elements.

2. **Right of Access:** The Association shall have the irrevocable right, to be exercised by 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 limited common elements therein or accessible therefrom or for making emergency repairs therein necessary for the maintenance, repair or replacement of any of the limited common elements therein necessary to prevent damage to the general or limited common elements or to any Unit. Damage to the interior or any part of the Unit resulting from maintenance, repair, emergency repair or replacement of any of the general or limited common elements or as a result of an emergency repair within another unit at the instance of the Association shall be designated either limited or general common expenses by the Association and assessed in accordance with such designation.
3. **Expenditures:** No single expenditure or debt in excess of \$1,000.00 may be made or incurred by the Association or Manager without the prior approval of a majority of the Unit Owners.
4. **Benefit:** Except as otherwise provided herein, this Declaration shall be binding upon and shall inure to the benefit of the declarant, the Association and each Unit Owner, and the heirs, personal representatives, successors and assigns of each.
5. **Service of Process:** The name and address of the person to receive service of process for the Townhouse Condominium, until another designation is filed of record shall be: MARK A. BRYAN, 420 West Mendenhall, P. O. Box 1677, Bozeman, Montana - 59715.
6. **Warranties:** The declarant expressly makes no warranties or representations concerning the property, the units, the Declaration, By-Laws or deeds of conveyance except as specifically set forth therein and no one may rely upon such warranty or representation not so specifically expressed therein. Estimates of common expenses are deemed accurate, but no warranty or guarantee is made nor is intended, nor may one be relied upon.

IN WITNESS WHEREOF, the declarant has caused this Declaration to be made and executed according to the provisions of the Montana Unit Ownership Act, (67-2301 et seq., 1947, as amended).

ATTEST:

*Dolores H. Erlenbush*  
Secretary

DECLARANT

E & E SERVICES, INC.

By: *Stanley Erlenbush*  
STANLEY ERLBUSH, President





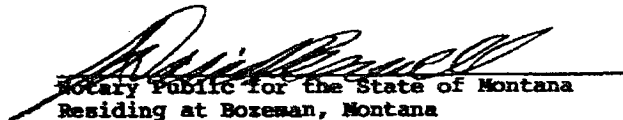
FILM 37 ME 2051

STATE OF MONTANA     )  
                          ) ss.  
COUNTY OF GALLATIN    )

On this 6th day of June, 1977, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared STANLEY ERLENBUSH and DOLORES H. ERLENBUSH, the president and secretary respectively of E & E SERVICES, INC., and known to me to be the persons whose names are subscribed to the within instrument and they acknowledged to me that they executed the same on behalf of the said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.



  
Notary Public for the State of Montana  
Residing at Bozeman, Montana  
My commission expires: 9-21-79

**BY-LAWS OF THE ASSOCIATION OF UNIT OWNERS  
OF  
TOWNHOUSE CONDOMINIUM**

**1. Purpose and Application:**

These Articles are and shall be the By-Laws of the Association of Unit Owners of the Townhouse Condominium. These By-Laws shall upon being recorded with the Recorder of Gallatin County, State of Montana, govern and control the administration of the Townhouse Condominium. These By-Laws are a part of the Declaration for the Townhouse Condominium, which Declaration is made a part hereof by reference. All Unit Owners, their guests and any renters or sub-lessees present and future shall have the rights and responsibilities described in these By-Laws and shall be subject to the provisions thereof.

The acquisition of an ownership interest in a unit in the Townhouse Condominium, signifies that the Owner accepts, ratifies and agrees to comply with these By-Laws.

**2. Membership:**

Persons owning a Unit in the Townhouse Condominium or owning a unit in any real estate tenancy relationship recognized by the State of Montana shall be a member of the Association of Unit Owners ("Association"). Membership begins concurrently with the acquisition of an ownership interest and terminates at the time such ownership interest is terminated. Such termination shall not relieve any owner of liability for obligations incurred while a member of the Association; further membership in the Association does not in any way negate or impair any owner's legal remedies, right to bring legal action, or defenses to any and all actions involving the Association, other Unit Owners, or the Management which may arise from or be incidents of unit ownership.

**3. Obligations:**

Each Unit Owner shall be obligated to comply with the By-Laws, the Declaration, and the laws of the City of Bozeman, County of Gallatin, State of Montana. Such obligations shall include, but not be limited to, the paying of assessments by the Association. Failure of any owner to abide by these By-Laws, and all rules made pursuant thereto, the Declaration, and the laws of the City of Bozeman, County of Gallatin, and the State of Montana, shall be grounds for appropriate legal action by the Association of Unit Owners or by an aggrieved Unit Owner against such non-complying owner.

**4. Meetings and Voting:**

**A. Regular Meetings:** There shall be a regular meeting of the Association annually on the 4th Monday in January of each year, commencing on January 23, 1978, or on such other date properly announced by the Association. The first meeting of the Association shall take place not more than one year following the date of recording these By-Laws, if not sooner held.

**B. Special Meetings:** Pursuant to these By-Laws, the Association may at any time hold special meetings. Such special meetings may be called on the initiative of the Chairman of the Association, a signed request of the Manager, or a petition signed by twenty-five percent (25%) of the Unit Owners. Notice of any special meeting must specify the reason for such meeting and the matters to be raised.

Only matters set forth in the petition or request may be brought before such meeting unless seventy-five percent (75%) of the aggregate interest present agrees otherwise.

C. Notice: Notice of all meetings, regular or special shall be mailed by the Association's Secretary to every Unit Owner of record at his address of record at least ten (10) days prior to the time for holding such meeting. Such notices shall specify the date, time and place of the meeting and shall make provision to allow for the voting of each Unit Owner's interest by proxy at the discretion of the owner. The mailing of a notice in the manner provided in this paragraph or the personal delivery of such notice by the Secretary of the Association shall be considered as notice served.

D. Quorum: No meeting, regular or special shall be convened to conduct business unless a quorum is present in person or by proxy. A quorum shall consist of more than fifty percent (50%) of the total aggregate interest of the Townhouse Condominium. At any time, during any meeting that a quorum is not present, such meeting shall be adjourned forthwith.

5. Voting Interest:

Each Unit Owner at Association meetings shall have a voting interest equal to his percentage of interest in the general common elements as set forth in the Declaration, a copy of which is being filed concurrently with the filing of these By-Laws with the Clerk and Recorder of Gallatin County, State of Montana.

Such percentage factor shall be the voting interest of each Unit Owner on all matters affecting the general business of the Townhouse Condominium, on all matters affecting the common elements, assessments for the common elements, and on all matters upon which the Association agreed to have voting by the common elements' interest. Voting upon matters affecting limited common elements and assessments for limited expenses shall be only by owners having a unit or interest in units located in the building affected.

Whenever a quorum is present at a meeting of the Association or the Board of Directors, those present may do any and all acts they are empowered to do unless specific provisions of these By-Laws, the Declaration, or the laws of the State of Montana direct otherwise.

6. Board of Directors:

The governance of the Townhouse Condominium, shall be by a Board of Directors elected from among the Unit Owners. Such Board shall have all powers and responsibilities attendant to the general administration and control of the condominium. Additionally, the Board shall have the authority necessary to carry into effect the powers and duties specified by these By-Laws.

7. Officers of the Board of Directors:

The Association shall elect from its membership a Board of Directors who shall consist of a Chairman, Secretary and Treasurer. The manner of election of the Board of Directors shall be as follows:

At the first and all subsequent meetings of the Association nominations for positions on the Board will be accepted from any of the Unit Owners present. Voting will be non-cumulative with each Association member having a vote equal to his percentage of interest in the general common elements. Board members shall serve for one year and shall be elected by majority vote of those present at any annual or special meeting. The first Board consisting of three (3) persons shall be appointed by the declarants in the Declaration, which Board shall serve until the first annual meeting of the Association at which time a new Board

shall be elected.

**8. Powers and Duties of the Board of Directors:**

The Board of Directors shall have the following powers and duties:

- a. To call annual meetings of the Association and give due notice thereof.
- b. To conduct elections of the Board of Directors.
- c. To enforce the provisions of the Declaration and By-Laws of the Townhouse Condominium, by appropriate action.
- d. To promulgate and adopt rules and regulations for the use of the common elements and for the occupancy of the units so as to not interfere with the peace and quiet of all the residents. Such rules must be approved by seventy-five percent (75%) of the Unit Owners at any regular or special meeting of the Association.
- e. To provide for the management of the Townhouse Condominium, by hiring or contracting with suitable and capable management and personnel for the day-to-day operation, maintenance, upkeep and repair of the general common and limited common elements.
- f. To levy assessments as allowed by the Declaration, these By-Laws and the State of Montana, and to provide for the collection, expenditure and accounting of said assessments.
- g. To pay for the expenses of the maintenance, repair and upkeep of the general common elements and the limited common elements, and to approve payment vouchers either at regular or special meetings.
- h. To delegate authority to the Manager for the conduct of condominium business, to carry out the duties and powers of the Board, however, such authority shall be precisely defined with ultimate authority at all time residing in the Board of Directors.
- i. To provide a means of hearing grievances of Unit Owners and responding appropriately thereto.
- j. to meet at regularly scheduled times and hold such meetings open to all Unit Owners or their agents.
- k. To prepare an annual budget for the condominium in order to determine the amount of the assessments payable by the Unit Owners to meet the general common and limited common expenses and allocate and assess such charges among the Unit Owners according to their respective interests in the general common and limited common elements, and to submit such budget to the Unit Owners on or before the date of the annual meeting.
- l. To levy and collect special assessments whenever, in the opinion of the Board it is necessary to do so in order to meet increased operating or maintenance expenses, costs, or additional capital expenses, or because of emergencies.
- m. To take appropriate legal action to collect any delinquent assessments, payments or amounts due from Unit Owners or from any person or persons owing money to the condominium, and to levy a penalty and to charge interest on unpaid amounts due and owing.

- n. To defend in the name of the Association any and all lawsuits wherein the Townhouse Condominium is a party defendant.
- o. To enter into contracts with third parties to carry out the duties herein set forth, for and in behalf of the Board and the Association.
- p. To establish a bank account for the Townhouse Condominium, and to keep therein all funds of the Association. Withdrawal of monies from such accounts shall only be by checks signed by such persons as are authorized by the Board of Directors.
- q. In general, to act for and carry on the administration and affairs of the Association as authorized and prescribed by the Declaration and to do all those things which are necessary and reasonable in order to carry out the governance and operation of the Townhouse Condominium.
- r. To establish rules and regulations for conduct, behavior and use of the general common and limited common elements.
- s. To make repairs, alterations and improvements to the general common and limited common elements consistent with managing the condominiums in a first class manner and in the best interest of the Unit Owners.
- t. To arrange, keep, maintain and renew the insurance for the Association as set forth in the Declaration.
- u. To carry out the duties and responsibilities of the Board in all other matters as may be authorized, needed or required by the Declaration.

9. Vacancies and Removal:

Should a vacancy occur on the Board of Directors, the Board, subject to the exception described below, shall appoint a member of the Association to serve for the unexpired term. Such vacancy shall be filled no later than the next regular Board meeting after which it occurs. Should such vacancy not be filled by the Board at the next regular meeting of the Association, the Association may fill such vacancy.

At any regular or special meeting of the Association, any member of the Board may be removed by a majority of the aggregate interests in the Condominium. Such vacancy shall be filled by the Association. Such removal matter must be announced in the notice of such regular or special meeting. The personal delivery of such notice by the Secretary of the Association shall be considered notice served.

10. Compensation:

No member of the Board of Directors shall receive any compensation for acting as such. Nothing herein, however, shall be construed to preclude compensation being paid to Managers who are hired by the Board of Directors.

11. Managers:

The Manager shall be appointed and/or removed by the Board of Directors. The Manager shall be bonded, and shall have maintained records of the financial affairs of the condominium. Such records shall also detail all assessments made by the Association and the status of payments of said assessments by all Unit Owners. All records shall be available for examination during normal business hours to any Unit Owner or his assigned representative. All functions and duties herein provided for the Manager may be performed by the Board, or the Chairman, if the Board should decide not to have a manager.

- a. **Accounts:** The receipts and expenditures of the Association shall be under the direction of the Manager and be classified as appropriate into general common expenses and limited common expenses and shall include a provision for:
1. **Current Expenses:** Which shall include all receipts and expenditures to be made within the year for which the budget is made, including a reasonable allowance for contingencies and working funds, except expenditures chargeable to reserve or to betterments. The balance in this fund at the end of each year shall be applied to reduce the assessments for current expenses for the succeeding year.
  2. **Reserve for Deferred Maintenance:** Which shall include funds for maintenance items which occur less frequently than annually.
  3. **Reserve for Replacement:** Which shall include funds for repair or replacement required because of damage, depreciation or obsolescence.
  4. **Betterments:** Which shall include the funds to be used for capital expenditures for additional improvements or additional personal property which shall be a part of the common elements.
- b. The Manager shall prepare and submit to the Board a budget, each calendar year, which must be approved then and adopted by the Board. The budget shall include the estimated funds required to defray the general common and limited common expenses and to provide and maintain funds for the foregoing accounts according to good accounting practices.
- Copies of the budget and proposed assessments shall be transmitted to each member on or before December 4, preceeding the year for which the budget is made. If the budget is subsequently amended, a copy of the amended budget shall be furnished to each member.
- c. A financial report of the accounts of the Association shall be made annually by an accountant, and a copy of the report shall be furnished to each member at the annual meeting.

The Manager shall generally operate and manage the condominium for and in behalf of the Unit Owners and shall have such other powers and authority as the Board may delegate.

12. **Amendment of By-Laws:**

These By-Laws may be amended at any regular or special meeting of the Association providing that a copy of the proposed revision is included in the notice of such meeting. Upon a vote of over seventy-five percent (75%) of the aggregate interest in the condominium, the amendment shall be declared adopted. The Secretary shall as soon as practicable after adoption, prepare a copy of these By-Laws as amended for certification by the Chairman and Secretary of the Association. Such amended and certified By-Laws shall then be filed and recorded in the office of the Clerk and Recorder of Gallatin County, State of Montana. By-Laws as amended shall become effective at the time of such recording.

13. **Assessments:**

In accordance with the percentage of interest in the general common elements as set forth in the Declaration, each Unit Owner shall be assessed for general common expenses. Such assessments, and assessments for limited common expenses shall be collected and paid according to the terms and under the procedures more particularly set forth in the Declaration.

The amount of assessments described above and any other assessments allowed by these By-Laws, the Declaration and by the State of Montana shall be fixed by the Board of Directors. Notice of each owner's assessments shall be mailed to said owner at his address of record.

14. The Declaration:

STANLEY ERLÉNBUŠ has filed along with these By-Laws, a Declaration, whereby the properties known as the Townhouse Condominium are submitted to Title 67, Chapter 23, R.C.M., 1947. The Declaration shall govern the acts, powers, duties and responsibilities of the Association of Unit Owners and in the event these By-Laws and the Declaration are in conflict, the Declaration shall prevail.

The definition of terms set forth in the Declaration shall be applicable throughout these By-Laws, and the interpretation thereof.

By virtue of these By-Laws and the Declaration, each Unit Owner has the right to membership in the Association of Unit Owners and and Unit Owner may be on the Board of Directors of the Townhouse Condominium.

The Townhouse Condominium Association of Unit Owners and its Board of Directors shall have primary and final authority on all matters solely affecting the condominium area, subject to the laws, rules and regulations of the City of Bozeman, County of Gallatin, State of Montana.

IN WITNESS WHEREOF, E & E SERVICES, INC., as the owner of record of all of the condominium units and 100% of the voting interests of the said Townhouse Condominium as of the date hereof, hereby appoints the following persons to serve on the Board of Directors until the first meeting of the Association to-wit:

- Chairman: MARK BRYAN
- Secretary: MARK REFLING
- Treasurer: STANLEY ERLÉNBUŠ

And E & E SERVICES, INC., and the said Board hereby declare and affirm the adoption of the foregoing By-Laws on the 6th day of June, 1977.

E & E SERVICES, INC.

BY *Stanley Erlénbush* STANLEY ERLÉNBUŠ, President  
*Mark Repling* MARK REFLING  
*Mark Bryan* MARK BRYAN

STATE OF MONTANA )  
 ) ss.  
 COUNTY OF GALLATIN )

On this 6th day of June, 1977, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared STANLEY ERLÉNBUŠ, MARK REFLING and MARK BRYAN, known to me to be the persons whose names are subscribed to the within instrument and they acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.



*David Powell*  
Notary Public for the State of Montana  
Residing at Bozeman, Montana  
My commission expires: 9-21-79

STATE OF MONTANA )  
COUNTY OF GALLATIN ) ss.

On this 6th day of June, 1977, before me, the undersigned, personally appeared STANLEY ERLENBUSH and DOLORES H. ERLENBUSH, the president and secretary respectively of E & E SERVICES, INC., and known to me to be the persons whose names are subscribed to the within instrument and they acknowledged to me that they executed the same on behalf of the said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.



*David Powell*  
Notary Public for the State of Montana  
Residing at Bozeman, Montana  
My commission expires: 9-21-79



Rt: Penwell & Bryan  
 \$3.00

INDEXED ✓  
 PLATTED ✓

Vol # 38 PAGE 1039

38181

State of Mont., County of Gallatin, as Filed for record July 13, 1977  
 at 1:00 P.M., and recorded in Book 38 of MISCELLANEOUS page 1039  
CARL L. STUCKY Recorder. By Carl L. Stucky Deputy  
 CERTIFICATE OF AMENDMENT

The undersigned herewith certifies that the within amendment to that certain Declaration of the Townhouse Condominium, previously recorded in Book 37 of Miscellaneous, Page 2035, on June 8, 1977, in the records of the Clerk and Recorder's Office, Gallatin County, Montana, have been amended by and through the authority and approval of more than 75% of the owners of land and untis contained in the said Townhouse Condominium, being the owners of record of said real property as of the date hereof, by the filings of the attached amendment.

The within amendment amends page three (3) of the said Declaration.

Dated: 7-11-77

E & E SERVICES, INC.

ATTEST: SA

*Dolores H. Erlenbush*  
 Secretary

*Stanley W. Erlenbush*  
 STANLEY W. ERLENBUSH, President

STATE OF MONTANA )  
 ) SS.  
 COUNTY OF GALLATIN )

On this 11th day of July, 1977, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared STANLEY W. ERLENBUSH and DOLORES H. ERLENBUSH, the president and secretary respectively of E & E SERVICES, INC., and known to me to be the persons whose names are subscribed to the within instrument and they acknowledged to me that they executed the same on behalf of the said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.



*Carl L. Stucky*  
 Notary Public for the State of Montana  
 Residing at Bozeman, Montana  
 My commission expires: 7-21-79

II. REAL ESTATE

1. Description. The real property which is by this Declaration submitted to the Montana Unit Ownership Act is described as:

Lot 10 of Moes Amended Subdivision to the City of Bozeman, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder of Gallatin County, Montana.

The condominium units consist of four (4) separate units numbered 1 through 4 consecutively. The provisions of this Declaration and the By-Laws shall be construed to be covenants running with the land including every unit and shall be binding upon the units owner, their heirs, successors, personal representatives and assigns for as long as this condominium declaration and By-Laws are in effect.

2. Condominium Units: Each Unit, together with the appurtenant undivided interest in the common elements of the Townhouse Condominium shall together comprise one condominium unit, shall be inseparable, and may be conveyed, leased, rented, devised or encumbered as a condominium unit as a fee simple interest in a parcel of real property.
3. Encroachments: If any portion of the general common elements or limited 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 limited 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 on the general common elements, the limited common elements, or on the Units for purposes of marketability of title.
4. Building: The Units comprising the condominium are contained in one (1) building. The building contains two floors including a ground floor and one upper floor.
5. Unit Boundaries: Each Unit shall include the part of the building containing the Unit that lies within the boundaries of the Unit, which boundaries are as follows:
  - a. Upper and Lower Boundaries: The upper and lower boundaries of the Unit shall be the following boundaries extended to an intersection with the perimetrical boundaries:
    - (1) Upper Boundary: The plane of the underside of the roof trusses on the second floor each Unit, not including the drywall or gypsum board nailed to such trusses.
    - (2) Lower Boundary: The surface of the floor joists of each unit.
  - b. Perimetrical Boundaries: The perimetrical boundaries of the Unit shall be the following boundaries extended to an intersection with the upper and lower boundaries:
    - (1) Exterior Building Walls: The intersecting vertical planes adjacent to and including the exterior of the interior sheathing or wall covering of the outside walls bounding a Unit. (The outside surface of the interior drywall on the outside walls).
    - (2) Interior Building Walls: The vertical planes of the centerline of the walls between the Units extended to intersections with other perimetrical boundaries.

DECLARATION AND BY-LAWS FOR  
TOWNHOUSE CONDOMINIUM

39796

INDEXED	<input checked="" type="checkbox"/>
PLATTED	<input type="checkbox"/>

State of Montana }  
County of Gallatin } ss.  
Filed August 18, 1977  
at 2:20 P. M., and  
Recorded in book 38 of  
MISCELLANEOUS Page 2666

Carl L. Stucky  
County Clerk & Recorder  
By Scott A. Bridges  
Deputy

Fee \$ 46.00 pd

Rt: Mark D. Refling  
First National Bank  
Box 730  
Bozeman, Mt. 59715

AMENDMENT - Original filing Film 37 Page 2035  
Amended - Film 38 Page 1039



**DECLARATION FOR  
TOWNHOUSE CONDOMINIUM**

This Declaration is hereby made and entered into this 6th day of June, 1977, by E & E SERVICE, INC., a Montana Corporation of 17 Sunset Heights, Bozeman, Montana - 59715, (hereinafter referred to as the "declarant"), whereby lands and property hereinafter described are submitted and subject to the Montana Unit Ownership Act pursuant to Chapter 23 of Title 67, Revised Codes of Montana, 1947, as amended.

The property subject to this Declaration shall be known as The Townhouse Condominium, (hereinafter referred to as the "condominium"). The address of the condominium is The Townhouse Condominium 307 South 15th Street, Bozeman, Montana - 59715.

**I. DEFINITIONS**

Unless the context expressly provides otherwise, the following definitions shall pertain throughout this Declaration and in the interpretation thereof:

1. **Aggregate Voting:** shall mean the entire number of votes or persons present or available to vote in person or by proxy in a particular circumstance.
2. **Association or Association of Unit Owners:** means all of the Unit Owners acting as a group and in accordance with duly adopted By-Laws and this Declaration.
3. **Board or Board of Directors:** shall mean the Board of Directors of the Association as more particularly defined in the By-Laws.
4. **Building:** means the building(s) containing the condominium units.
5. **By-Laws:** means the By-Laws promulgated by the Association under this Declaration and the Unit Ownership Act.
6. **Common Elements:** means both general common elements and limited common elements.
  - a. **General Common Elements:** includes all those elements which are for the use of all residents and guests of residents of the Townhouse Condominium. Specifically included are: grounds surrounding the building, driveways, the land on which the building is situated, paths and walkways, footings, foundations, framework, columns, trusses, supports, roof and other structural components of the building, exterior walls, gutters and vertical roof drains, electrical, gas, telephone, water and sewer lines and connections serving all of the units, landscaping, plants and other materials and improvements separate from and outside of the building containing the units, and other elements necessary for the safety, maintenance and existence of the condominium in which each Unit Owner shall have his designated percentage of interest, as set forth in paragraph IV below.
  - b. **Limited Common Elements:** as used in this Declaration shall mean those common elements which are reserved for the use of fewer than all of the residents and guests of residents of the Townhouse Condominium. Specifically, as to any given Unit Owner or Owners, limited common elements shall mean the following common elements which are located within or affixed to the building

containing his Unit in which these elements are located:

Flues, chimneys, ducts, cables, conduits, public utility lines, water, sewer, electrical, gas, cable television lines and hot and cold water pipes, (all such utility pipes and lines are limited common elements where they service only one or two units; where they service all units they shall be general common elements), entrances, furnaces, boilers, hot water tanks, heating ducts, cold air returns, washer and dryer hook-ups, and fixtures or other portions of the building servicing only a particular unit or less than all of the units. The percentage of the units interest in the limited common elements shall be computed by determining the number of units that have use of the limited common elements and taking the value of each such unit and dividing it by the value of the unit or all such units making use of the particular limited common element. Such values shall be the same as the values used to compute the percentage of interest of the unit owners in the general common elements and shall be the value of the units at the date of filing this Declaration and which are set forth in this Declaration.

7. **Common Expenses:** means expenses of administration, maintenance, repair or replacement of general common elements, expenses agreed upon by the Association of all Unit Owners, and expenses declared common by the Unit Ownership Act.
8. **Declaration:** means this document and all parts attached thereto or incorporated by reference.
9. **Limited Expenses:** means the expenses attributable to the maintenance, repair and replacement of limited common elements.
10. **Manager:** means the manager, the Board of Directors, management corporation or any other person or group of persons retained or appointed by the Board, or by the Association of Unit Owners for the purpose of conducting the day-to-day operations of the Condominium.
11. **Property:** means all the land, buildings, improvements and structures thereon and all easements, rights and appurtenances belonging thereto, which are herewith submitted to the Unit Ownership Act.
12. **Record Officer:** means the county officer charged with the duty of filing and recording the deeds, mortgages and all other instruments and documents relating to this Declaration and the property to which it is subject.
13. **Unit:** shall be the separate condominium units of the Townhouse Condominium and is a parcel of real property including and containing one or more rooms occupying one or more floors or a part or parts thereof, intended for any type of independent use, and with a direct exit to a street or highway or to common elements leading to a street or highway.
14. **Unit Designation:** is the combination of letter, numbers and words which identify the designated units.
15. **Unit Owner or Owner:** means the person or persons owning a fee simple absolute, under the laws of the State of Montana, in one or more units of the Townhouse Condominium.

II. REAL ESTATE

1. Description. The real property which is by this Declaration submitted and subject to the Montana Unit Ownership Act is described as follows:

Lot 10 of the Amended Plat of Moe's Subdivision to Bozeman, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder of Gallatin County, Montana.

The condominium units consist of four (4) separate units numbered 1 through 4 consecutively. The provisions of this Declaration and the By-Laws shall be construed to be covenants running with the land including every unit and shall be binding upon the units owner, their heirs, successors, personal representatives and assigns for as long as this condominium declaration and By-Laws are in effect.

2. Condominium Units: Each Unit, together with the appurtenant undivided interest in the common elements of the Townhouse Condominium shall together comprise on condominium unit, shall be inseparable, and may be conveyed, leased, rented, devised or encumbered as a condominium unit as a fee simple interest in a parcel of real property.
3. Encroachments: If any portion of the general common elements or limited 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 limited 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 on the general common elements, the limited common elements, or on the Units for purposes of marketability of title.
4. Buildings: The Units comprising the condominium are contained in one (1) building. The building contains two (2) floors, including a ground floor and one (1) upper floor.
5. Unit Boundaries: Each Unit shall include the part of the building containing the Unit that lies within the boundaries of the Unit, which boundaries are as follows:

a. Upper and Lower Boundaries: The upper and lower boundaries of the Unit shall be the following boundaries extended to an intersection with the perimetrical boundaries:

(1) Upper Boundary: The plane of the underside of the roof trusses on the second floor of each Unit, not including the drywall or gypsum board nailed to such trusses.

(2) Lower Boundary: The surface of the floor joists of each unit.

b. Perimetrical Boundaries: The perimetrical boundaries of the Unit shall be the following boundaries extended to an intersection with the upper and lower boundaries:

(1) Exterior Building Walls: The intersecting vertical planes adjacent to and including the exterior of the interior sheathing or wall covering of the outside walls bounding a Unit. (The outside surface of the interior drywall on the outside walls).

(2) Interior Building Walls: The vertical planes of the centerline of the walls between the Units extended to intersections with other perimetrical boundaries.

6. Construction Materials: The principal material of construction of the Units are concrete for the foundations, footings, slabs and basement, wood for the framing, structural and finish work, sheetrock, plywood, and wood paneling for the interior, carpet, wood or tile for the floors, spruce siding for exterior wall surfaces, and asphalt on the roof of the building.

III. EASEMENT, COMMON ELEMENT - INTERIOR REMODELING

1. Common Element Easements: A nonexclusive right of ingress and egress and support through the general common elements is appurtenant to each Unit and all the general common elements are subject to such rights.
2. Interior Remodeling: Each Unit Owner shall have the exclusive right to paint, repaint, tile, wax, paper, panel, carpet, brick or otherwise maintain, refinish and decorate the inner surfaces of the walls, ceilings, floors, windows and doors bounding his own Unit, and the interior thereof, so long as such owner does not affect the structural integrity of the building in which his Unit is located.

IV. OWNERSHIP AND VOTING - EXHIBITS - USE

1. Percentage of Interest: Each Unit Owner shall be entitled to the exclusive ownership, use and possession of his Unit and the percentage of the interest of each Unit Owner in the common elements as set forth below. Each Unit Owner shall have a percentage of undivided interest in the general common elements of the Townhouse Condominium. Such percentage represents his ownership interest in the general common elements, his liability for common expenses, and the voting interest of the Unit Owner or Owners in all matters concerning the Association of Unit Owners. The percentage of interest in the general common elements for the respective owners shall be computed by taking the value of each Unit at the date of filing this Declaration and dividing it by the then combined value of all of the units having an interest in the general common elements of the condominium. Such percentage of interest and value for each of the Units in the condominium shall be according to the percentages set forth below:

<u>UNIT NO.</u>	<u>VALUE</u>	<u>PERCENTAGE OF INTEREST IN GENERAL COMMON ELEMENTS</u>
1	\$30,000.00	25%
2	\$30,000.00	25%
3	\$30,000.00	25%
4	\$30,000.00	25%

2. Floor Plans and Exhibits: The Townhouse Condominium consists of the real property described above, and a total of four (4) separate Condominium Units as shown on the floor plans. For identification and descriptive purposes the following Exhibits are attached and by reference hereto incorporated into and made a part of this Declaration:

Exhibit A: Showing the floorplans for each of the Units of the Townhouse Condominium, and the Site Plan, the area of each, the dimensions and the designation for each Unit.

3. Use: The Units and common elements shall be occupied and used as follows:

a. No part of the property shall be used for other than residential purposes. Each family unit shall be used as a residence for a single family and for no other purpose, except that an Owner may use a portion of his Unit for an office or studio provided that the activities therein shall not interfere with the quiet enjoyment or comfort of any other Owner or occupant and provided further that in no event shall any part of the property be used as a school or music studio. Nothing contained herein shall prevent an owner of a unit from renting or leasing their unit to third parties for residential purposes.

b. There shall be no obstruction of the common elements nor shall anything be stored in or on the common elements without prior consent of the Association. Each owner shall be obligated to maintain and keep in good order and repair his own family Unit.

c. Nothing shall be done or kept in any Unit or in the common elements which will increase the rate of insurance on the building or contents thereof applicable for residential use, without the prior written consent of the Association. No owner shall permit anything to be done or kept in his Unit or in the common elements which will result in the cancellation of insurance on the building, or contents thereof, or which would be in violation of any law. No waste will be permitted in the common elements.

d. Owners shall not cause or permit anything to be hung or displayed on the outside of windows or placed on the outside walls of a building and no sign, awning, canopy, radio or television antenna shall be affixed to or placed upon the exterior walls or roof or any part thereof, without the prior written consent of the Association.

e. No rabbits, livestock, poultry or other animals of any kind shall be raised, bred or kept in any Unit, except that dogs, cats or other household pets may be kept in Units, subject to rules and regulations adopted by the Association, provided that they are not kept, bred or maintained for any commercial purpose.

f. No nuisances shall be allowed upon the property nor shall any use or practice be allowed which is a source of annoyance to residents of the Condominium or which interferes with the peaceful possession and proper use of the property by its residents. No immoral, improper, offensive or unlawful use shall be made of the property nor any part thereof and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

g. Nothing shall be done in any family Unit or in, on or to the common elements which will impair the structural integrity of the building or which would structurally change the building, except as is otherwise provided herein.

h. No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise shall be conducted, maintained or permitted on any part of the property, nor shall any "for sale" or "for rent" signs or other window displays or advertising be maintained or permitted on any part of the property or in any Unit therein, except that declarant and its agents reserve the right to place "for sale" or "for rent" signs on any unsold or unoccupied Units, and the right is hereby given to any mortgagee or trust indenture beneficiary who may become the owner of any Unit, to place such sign on any Unit owned by such mortgagee or beneficiary.



- i. Nothing shall be altered or constructed in or removed from the common elements, except upon the written consent of the Association.
- 4. Exclusive Ownership: Each Owner or Owners shall be entitled to exclusive ownership and possession of their Unit. Such Owners may use the general and limited common elements in accordance with the purposes for which they are intended and as they may otherwise agree between themselves, so long as they do not hinder or encroach upon the lawful rights of other Unit Owners.

V. THE ASSOCIATION

- 1. Function: There shall be formed an Association of Unit Owners. Membership shall be limited to Unit Owners as defined in this Declaration. It shall be the function of the Association to:
  - a. Adopt By-Laws for the governance of the Association.
  - b. Make provisions for the general management of the Condominium.
  - c. Levy assessments as provided for in this Declaration, the By-Laws, and the Unit Ownership Act.
  - d. Adopt and implement a policy for the affairs of the Condominium.
  - e. Enter into contracts to hire personnel for the management of the affairs of the Association and the maintenance and repair of the common areas.
- 2. Vote: On all matters, unless excluded by this Declaration, to be decided by the Association, each Unit Owner shall have a vote equal to his percentage of interest in the general common elements. An owner of a condominium Unit, upon becoming an Owner, shall be a member of the Association and remain a member for the period of his unit ownership. Except as otherwise provided in the Unit Ownership Act, this Declaration or the By-Laws, a majority of the aggregate interest present at any meeting or by proxy shall be sufficient to act on matters brought before the Association. Meetings of the Association shall only be conducted when a quorum is present, as defined in the Association By-Laws.
- 3. Failure to Comply: Each owner shall comply strictly with the provisions of this Declaration, the By-Laws of the Association and the rules, regulations, decisions and resolutions of the Association adopted pursuant thereto as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief or both, and for reimbursement of all costs, including attorneys fees incurred in connection therewith, which action shall be maintainable by the Manager in the name of the Association, on behalf of the owner or by an aggrieved owner where there has been a failure of the Association to bring such action.
- 4. Payment of Assessments - When Due: All assessments shall be due three (3) days from the date of mailing of such assessment following the meeting at which time assessments are levied by the Association and may be payable in installments monthly or quarterly, at the option of the Board. The amount of the common expenses assessed against each condominium Unit and the amount of limited 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 this contribution toward the common expenses and the limited expenses by waiver of the use or enjoyment of any of the general common elements or limited common elements or by abandonment of his

Unit. All assessments which are not paid within thirty (30) days from the date they are due and payable become delinquent and are subject to interest and penalty charges. The Association or Manager shall have the responsibility of taking prompt action to collect any unpaid assessment which becomes delinquent. In the event of delinquency in the payment of the assessment, the Unit Owner shall be obligated to pay interest at a rate to be determined by the Board on the amount of the assessment from the due date thereof, together with such late charges as provided in the By-Laws of the Association. Suit to recover a money judgment for unpaid common expenses and limited expenses may be maintainable without foreclosing or waiving the lien securing the same.

a. Common expenses and common profits, if any, and limited common expenses of the Townhouse Condominium shall be distributed among, and charged to the Unit Owners according to the percentage of interest of each in the common elements.

b. Except as otherwise limited in this Declaration, each Unit Owner shall have the right to use the common elements for all purposes incident to the use of and occupancy of the respective family unit as a residence, and such other incidental uses permitted by this Declaration, which rights shall be appurtenant to and run with the family unit.

5. **Levying Assessments - When Made - Purposes:** The Association of Unit Owners shall levy assessments upon the Unit Owners in the following manner and for the following reasons:

a. Assessments shall be made as a part of the regular, annual business meeting of the Association as provided in the By-Laws of the Association or assessments can be made for special purposes at any other regular or special meeting thereof. All assessments shall be fixed by resolution of the Board of Directors. Notice of the assessment, whether regular or special, the amount thereof, and the purpose for which it is made, including an annual budget for expenditures and operation, for regular annual assessments, shall be served on all Unit Owners affected, by mailing a copy of the notice to said Owners at their address of record at least ten (10) days prior to the date for such meeting.

b. Assessments shall be made for the repair, insurance, replacement, general maintenance, management and administration of common elements, fees, costs and expenses of the manager, taxes for common areas if any, and assessments for the Unit Owners percentage share of any Special Improvement District Assessments. Assessments shall be based upon and computed by using the percentage of interest that each Unit Owner has in relation to the common elements.

c. Assessments may also be made for the payment of limited common element expenses such that the Unit Owners are chargeable only for the expenses relating to their respective units or building. Unit Owners shall share in the payment for limited expenses for the repair, maintenance and replacement of limited common elements of their respective Units in accordance with the percentage the condominium unit or units have in the limited common element for which the assessment is being made. If only one Unit is associated with the limited common elements involved, then the entire cost of such repair, maintenance or replacement shall be borne by that Unit.

d. Assessments may also be made for any purpose contemplated by this Declaration and for any purpose set out in the Montana Unit Ownership Act.

e. At the time the Association holds its first meeting a reserve account shall be set up to which initial assessments shall then be deposited and which assessment shall be a sum that is equal to two and one-half times the monthly assessment fee for that year.

VI. DECLARANTS' RIGHT TO CHANGE

The declarant, E & E SERVICE, INC., reserves the right to change the interior design and arrangement of all Units, so long as the declarant owns the Units so altered. No such change shall increase the number of Units or alter the boundary of the general common elements without an amendment of this Declaration.

VII. AMENDMENT

Amendment of this Declaration shall be made in the following manner:

At any regular or special meeting of the Association of Unit Owners such amendment may be proposed as a resolution by any Unit Owner. Upon adoption of the resolution by a majority vote of those present the amendment shall be made subject for consideration at the next succeeding meeting of the Association with notice thereof, together with a copy of the amendment to be furnish to each owner no later than thirty (30) days in advance of such meeting. At such meeting, the amendment shall be approved upon receiving the favorable vote of seventy-five percent (75%) of the Unit Owners, If so approved, it shall be the responsibility of the Association to file the amendment with the Clerk and Recorder's Office of Gallatin County, Montana.

VIII. CHANGES, REPAIRS AND LIENS

1. Alterations by Unit Owners: The interior plan of a Unit may be changed by its owner with the exception of the bearing walls which may not be moved. No Units may be subdivided. No change in the boundaries of Units shall encroach upon the boundaries of the common elements except by amendment to this Declaration. Boundary walls must be equal in quality of design and construction to the existing boundary walls. A change in the boundaries between Units shall be set forth in an amendment to this Declaration. In addition to compliance with the provisions of Paragraph VII above, such an amendment must further set forth and contain plans to the Units concerned showing the Units after the change in boundaries, and attached to the amendment as exhibits. Such an amendment shall be signed and acknowledged by the owners of the Units concerned; as well as those owners with an interest in any common elements affected, together with words of conveyance in the amendment conveying interests acquired in the Units or common elements by such change. The amendment shall also be approved by the Board of Directors of the Association and signed and acknowledged by all lienors and mortgagees of the Units concerned.
2. Maintenance by Unit Owner: An Owner shall maintain and keep in repair the interior of his own Unit and the fixtures thereof. All fixtures, utility lines and equipment installed in 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 do no act nor any work that will impair the structural soundness or integrity of the building or impair any easement. An Owner shall also keep all areas and limited common elements appurtenant to his Unit in a clean and sanitary condition. The right of each Owner to repair, alter, and remodel is coupled with the obligation to replace any finishing or other materials removed with similar types or kinds of materials. No acts of alteration, repairing or remodeling by any Unit Owner shall impair in any way the structural intergrity of the Units adjoining Owners or the structural integrity of limited common elements or general common elements.

3. **Exterior Alterations:** No Owner may change, alter or remodel the exterior of his Unit without the prior written approval of the Board of Directors of the Association.
4. **Liens for Alterations:** Labor performed and materials furnished and incorporated into a Unit with the consent of or at the request of the Unit Owner, his agent, his contractor or subcontractor shall be the basis for the filing of a lien against the Unit or the Unit Owner consenting to or requesting the same. Each Unit 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 or against the general common elements or limited common elements for construction performed or for labor, materials, services or other products incorporated in the Owner's Unit at such Owner's request.
5. **Liens for Assessments:** All sums assessed but unpaid for the share of general common expenses and limited 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 assessment liens on the Unit in favor of any assessing authority, and all sums unpaid on a first mortgage or a first trust indenture of record, including all unpaid obligatory sums as may be provided by such encumbrance. To evidence such lien, the Manager shall prepare a written notice of lien assessment setting forth the amount of such unpaid indebtedness, the amount of 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 and verified by one of the officers of the Association or by the Manager, or his authorized agent, shall be recorded in the office of the Clerk and Recorder of Gallatin County, Montana. Such lien shall attach from the date of recording such notice. Such lien may be enforced by the foreclosure of the defaulting Owner's Condominium Unit by the Association in the manner provided in the Unit Ownership Act upon the recording of a notice or claim thereof. In any such proceeding the Owner may be required to pay the costs, expenses and attorney's fees incurred in filing a lien, and in the event of foreclosure proceedings, additional costs, expenses and attorney's fees incurred.
6. **Foreclosure:** The Association shall have the power to bid on the Condominium Unit at foreclosure or other legal sale and to acquire and hold, lease, mortgage and vote the votes appurtenant to, convey or otherwise deal with the same. Any encumberer holding a lien on a Condominium Unit may pay,, but shall not be required to pay, any unpaid general common expenses or limited common expenses payable with respect to any such Unit, and upon such payment such encumberer shall have a lien on said Unit for the amounts paid of the same rank as the lien of his encumbrance without the necessity of having to file a notice or claim of such lien.
7. **Insurance:**
  - A. All insurance policies upon the condominium property shall be purchased by the Association and shall be issued by an insurance company authorized to do business in Montana.
    - a. **Named Insured - Personal Property:** The named insured shall be the Association individually as agent for the Unit Owners without naming them. Such policies shall provide that payments for losses thereunder by the insurer shall be paid to the insurance Trustee hereinafter designated, and all policies and endorsements thereon shall be deposited with the insurance trustee. Unit Owners may obtain insurance coverage at their own expense upon their own personal property and for their personal liability and living expense.

b. Copies to Mortgagees: One copy of each insurance policy and of all endorsements thereon shall be furnished by the Association to each mortgagee of a Unit Owner on request.

**B. Coverage:**

a. Casualty: All buildings and improvements upon the land shall be insured to an amount equal to the maximum insurable replacement and all personal property included in the common elements shall be insured for its value, all as determined annually by the Board of Directors of the Association, but subject to such deductible clauses as are required in order to obtain coverage at reasonable costs and which coverage shall be increased by the Board as may be necessary to provide that the insurance proceeds will be sufficient to cover the cost of replacement, repair or reconstruction and such coverage shall afford protection against:

- (1) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and
- (2) Such other risks as may from time to time shall customarily be covered with respect to buildings similar in construction, location and use as the building on the land, and
- (3) Errors and Omissions insurance for the Directors, Officers and Managers if the Association desires in amounts to be determined by the Board.

The policies shall state whether the following items are included within the coverage in order that the Unit Owners may insure themselves if the items are not insured by the Association: airhandling equipment for space cooling and heating, service equipment such as dishwasher, disposal, laundry, fireplaces, refrigerator, stove, oven, whether or not such items are built-in equipment, interior fixtures such as electrical and plumbing fixtures, floor coverings, inside paint and other inside wall finishings.

b. Public Liability: In such amounts and with such coverage as shall be required by the Board of Directors of the Association, including, but not limited to hired automobile and non-owned automobile coverage, if applicable, and with cross-liability endorsement to cover liabilities of the Unit Owners as a group to a Unit Owner.

c. Other Insurance: Such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable and as may be required by the Federal and State Laws.

C. Premiums: Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense, except that the amount of increase in the premium occasioned by use for other than a residence, misuse, occupancy or abandonment of a Unit or its appurtenances or of the common elements by a Unit Owner shall be assessed against that Owner. Not less than ten (10) days prior to the date when a premium is due, evidence of such payment shall be furnished by the Association to each mortgagee listed in the roster of mortgagees.

D. Insurance Trustee: All insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their mortgagees as their interests may appear, and shall provide that all proceeds covering property losses shall be paid to such bank in Montana with trust powers as may be designated as insurance trustee by the Board of Directors of the Association, which trustee

is herein referred to as the insurance trustee. The insurance trustee shall not be liable for payment of premiums nor for the renewal or the sufficiency of policies nor for the failure to collect any insurance proceeds. The duty of the insurance trustee shall be to receive such proceeds as are paid and hold the same in trust for the purposes elsewhere stated in this instrument and for the benefit of the Unit Owners and their mortgagees in the following shares, but which shares need not be set forth in the records of the insurance trustee.

a. Unit Owners: An undivided share for each Unit Owner, such share being the same as the undivided share in the common elements appurtenant to his Unit.

b. Mortgagees: In the event a mortgagee endorsement has been issued as to a Unit, the share of the Unit Owner shall be held in Trust for the mortgagee and the Unit Owner as their interests may appear, provided however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions thereof made to a Unit Owner and mortgagee pursuant to the provisions of this Declaration.

E. Distribution of Proceeds: Proceeds of insurance policies received by the insurance trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

a. Miscellaneous expenses of administration, insurance trustee and construction or remodeling supervision shall be considered as part of the insurance proceeds.

b. Reconstruction or Repair: If the damage for which the proceeds are paid is to be repaired or reconstructed by the Association, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided.

c. Certificate: In making distribution to Unit Owners and their mortgagees, the insurance trustee may rely upon a certificate of the Association made by its representative or manager as to the names of the Unit Owners and their respective shares of the distribution.

F. Association as Agent: The Association is irrevocably appointed agent for each Unit Owner and for each Owner of a mortgage or other lien upon a unit and for each Owner of any other interest in the condominium property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

G. Benefit to Mortgagees: Certain provisions in this paragraph entitled "Insurance" are for the benefit of mortgagees of condominium parcels, and all such provisions are covenants for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

H. The Owners Association shall notify the holder of any first lien on any of the Units of the occurrence of any loss in excess of \$10,000.00, within 30 days of such loss.

8. Reconstruction.

A. Repair after Casualty: If any part of the condominium property shall be damaged by casualty, whether or not it shall be reconstructed

or repaired, shall be determined in the following manner:

- a. Lesser Damage: If a Unit or Units are found by the Board of Directors of the Association to be tenantable after the casualty, the damaged property shall be repaired.
- b. If a Unit or Units are found by the Board of Directors to be not tenantable after the casualty, the damaged property may be reconstructed or rebuilt, or if not then the property shall be subject to the applicable provisions of the Unit Ownership Act.
- c. In the event the Owners Association elects not to rebuild as herein provided and set forth in 67-2334, the insurance proceeds shall be used to satisfy any outstanding liens or encumbrances on the property.
- d. Certificate: The insurance trustee may rely upon a certificate of the Association made by its Chairman, President or Manager to determine whether or not the damaged property is to be reconstructed or rebuilt.

B. Plans and Specifications: Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original improvements, or if not, then according to plans and specifications approved by not less than seventy-five percent (75%) of the Unit Owners, including the Owners of all Units the plans for which are to be altered. Any such reconstruction not in accordance with the original plans and specifications must be set forth in an amendment to the Declaration, which amendment shall be prepared and filed of record in accordance with the provisions of such amended filing, more particularly set forth in Paragraph VII and Paragraph VIII, sub-paragraph 1, hereinabove.

C. Responsibility: The responsibility for reconstruction or repair after casualty shall be the same as for maintenance and repair in the condominium property.

D. Assessments: If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction or repair for which the Association is responsible, or if at any time during such reconstruction or repair, or upon completion of such reconstruction or repair, the funds for the payment of the costs thereof are insufficient, assessments shall be made against all Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such assessment shall be in proportion to the Owner's percentage of interest in the general common elements.

E. Construction Funds: The funds for payment of costs of reconstruction or repair after casualty, which shall consist of proceeds of insurance held by the insurance trustee and funds collected by the Association from assessments against Unit Owners, shall be disbursed in the sound discretion of the trustee and according to the contract of reconstruction or repair, which contract must have the approval of the Board of the Unit Owners involved.

Surplus: It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from the insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be paid to the Association for the use and benefit of the Unit Owners.

IX. REMOVAL OR PARTITION - SUBDIVISION

The Townhouse Condominium may only be removed from condominium ownership, and may only be partitioned or sold, upon compliance with each of the conditions hereof:

- a. The Board of Directors of the Association must approve the plan of removal, partition or sale, including the details of how any partition or sale and the distribution of property or funds shall be accomplished.
- b. The plan of removal, partition or sale must be approved as provided in the Montana Unit Ownership Act. Upon obtaining such approval the Board of the Association shall be empowered to implement and carry out the removal or partition plan.
- c. No Unit may be divided or subdivided into a smaller unit, nor any portion thereof sold or otherwise transferred, except as provided above.

X. INTERPRETATION

The provisions of this Declaration and of the By-Laws to be promulgated, and recorded herewith, shall be liberally construed to effectuate the purposes of this Declaration and By-Laws and to create a building or buildings subject to and under the provisions of the Unit Ownership Act.

XI. REMEDIES

All remedies provided for in this Declaration and By-Laws shall not be exclusive of any other remedies which may now be, or are hereafter, available to the parties hereto as provided for by law.

XII. SEVERABILITY

The provisions hereof shall be deemed independent and severable and the invalidity or partial invalidity or unenforceability of any one or more provisions shall not affect the validity or enforceability of any other provision hereof.

XIII. MISCELLANEOUS

1. Utility and Structural Easements: Easements are reserved through the condominium property as may be required for utility services, including water, sewer, power, telephone, natural gas and cable television, in order to serve the condominium adequately, provided however, such easements through the property or through a Unit shall be only according to the plans and specifications for the Unit building, as set forth in the recorded plat, or as the building is constructed, unless approved in writing by the Unit Owner.

Every portion of a family unit which contributes to the structural support of the building shall be burdened with an easement of structural support for the benefit of the common elements.

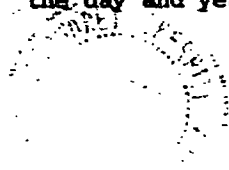
2. Right of Access: The Association shall have the irrevocable right, to be exercised by the Manager, to have access to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the limited common elements therein or accessible therefrom or for making emergency repairs therein necessary for the maintenance, repair or replacement of any of the limited common elements therein necessary to prevent damage to the general or limited common elements or to any Unit. Damage to the interior or any part of the Unit resulting from maintenance, repair, emergency repair or replacement of any of the general or limited





of E & E SERVICE, INC., and known to me to be the persons whose names are and they acknowledged to me that they executed the same on behalf of the said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.



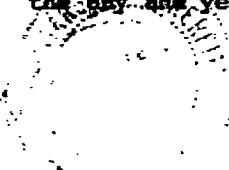
*Margaret Skeritt*

Notary Public for the State of Montana  
Residing at Bozeman, Montana  
My commission expires: 6-1-79

STATE OF MONTANA )  
COUNTY OF Gallatin ) ss.

On the 18 day of August, 1977, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared ARCHIE L. BRYAN and MARJORIE BRYAN, known to me to be the persons whose names are subscribed to the within instrument and they acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.



*Margaret Skeritt*

Notary Public for the State of Montana  
Residing at Bozeman, Montana  
My commission expires: 6-1-79

STATE OF MONTANA )  
COUNTY OF GALLATIN ) ss.

On this 18 day of August, 1977, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared MARK REFLING, known to me to be the person whose name is subscribed to the within instrument and he acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.



*Margaret Skeritt*

Notary Public for the State of Montana  
Residing at Bozeman, Montana  
My commission expires: 6-1-79

**BY-LAWS OF THE ASSOCIATION OF UNIT OWNERS  
OF THE  
TOWNHOUSE CONDOMINIUM**

**1. Purpose and Application:**

These Articles are and shall be the By-Laws of the Association of Unit Owners of the Townhouse Condominium. These By-Laws shall upon being recorded with the Recorder of Gallatin County, State of Montana, govern and control the administration of the Townhouse Condominium. These By-Laws are a part of the Declaration for the Townhouse Condominium, which Declaration is made a part hereof by reference. All Unit Owners, their guests and any renters or sub-lessees present and future shall have the rights and responsibilities described in these By-Laws and shall be subject to the provisions thereof.

The acquisition of an ownership interest in a unit in the Townhouse Condominium, signifies that the Owner accepts, ratifies and agrees to comply with these By-Laws.

**2. Membership:**

Persons owning a Unit in the Townhouse Condominium or owning a unit in any real estate tenancy relationship recognized by the State of Montana shall be a member of the Association of Unit Owners ("Association"). Membership begins concurrently with the acquisition of an ownership interest and terminates at the time such ownership interest is terminated. Such termination shall not relieve any owner of liability for obligations incurred while a member of the Association; further membership in the Association does not in any way negate or impair any owner's legal remedies, right to bring legal action, or defenses to any and all actions involving the Association, other Unit Owners, or the Management which may arise from or be incidents of unit ownership.

**3. Obligations:**

Each Unit Owner shall be obligated to comply with the By-Laws, the Declaration, and the laws of the City of Bozeman, County of Gallatin, State of Montana. Such obligations shall include, but not be limited to, the paying of assessments by the Association. Failure of any owner to abide by these By-Laws, and all rules made pursuant thereto, the Declaration, and the laws of the City of Bozeman, County of Gallatin, and the State of Montana, shall be grounds for appropriate legal action by the Association of Unit Owners or by an aggrieved Unit Owner against such non-complying owner.

**4. Meetings and Voting:**

**A. Regular Meetings:** There shall be a regular meeting of the Association annually on the 4th Monday in January of each year, commencing on January 23, 1978, or on such other date properly announced by the Association. Any 1st lienholder or mortgagee shall have the right to have a representative attend any regular meeting. The 1st meeting of the Association shall take place not more than 1 year following the date of recording these By-Laws if not sooner held.

**B. Special Meetings:** Pursuant to these By-Laws, the Association may at any time hold special meeting, notice of which must be sent to any 1st mortgagee. Such special meetings may be called the initiative of the Chairman of the Association, a signed request of the Manager,

or a petition signed by 25% of the Unit Owners. Notice of any special meeting must specify the reason for such meeting and the matters to be raised. Only matters set forth in the petition or request may be brought before such meeting unless seventy-five percent (75%) of the aggregate interest present agrees otherwise.

C. Notice: Notice of all meetings, regular or special shall be mailed by the Association's Secretary to every Unit Owner of record at his address of record at least tne (10) days prior to the time for holding such meeting. Such notices shall specify the date, time and place of the meeting and shall make provision to allow for the voting of each Unit Owner's interest by proxy at the discretion of the owner. The mailing of a notice in the manner provided in this paragraph or the personal delivery of such notice by the Secretary of the Association shall be considered as notice served.

D. Quorum: No meeting, regular or special shall be convened to conduct business unless a quorum is present in person or by proxy. A quorum shall consist of more than fifty percent (50%) of the total aggregate interest of the Townhouse Condominium. At any time, during any meeting that a quorum is not present, such meeting shall be adjourned forthwith.

#### 5. Voting Interest:

Each Unit Owner at Association meetings shall have a voting interest equal to his percentage of interest in the general common elements as set forth in the Declaration, a copy of which is being filed concurrently with the filing of these By-Laws with the Clerk and Recorder of Gallatin County, State of Montana.

Such percentage factor shall be the voting interest of each Unit Owner on all matters affecting the general business of the Townhouse Condominium, on all matters affecting the common elements, assessments for the common elements, and on all matters upon which the Association agreed to have voting by the common elements' interest. Voting upon matters affecting limited common elements and assessments for limited expenses shall be only by owners having a unit or interest in units located in the building affected.

Whenever a quorum is present at a meeting of the Association or the Board of Directors, those present may do any and all acts they are empowered to do unless specific provisions of these By-Laws, the Declaration, or the laws of the State of Montana direct otherwise.

#### 6. Board of Directors:

The governance of the Townhouse Condominium, shall be by a Board of Directors elected from among the Unit Owners. Such Board shall have all powers and responsibilities attendant to the general administration and control of the condominium. Additionally, the Board shall have the authority necessary to carry into effect the powers and duties specified by these By-Laws.

#### 7. Officers of the Board of Directors:

The Association shall elect from its membership a Board of Directors who shall consist of a Chairman, Secretary and Treasurer. The manner of election of the Board of Directors shall be as follows:

At the first and all subsequent meetings of the Association nominations for positions on the Board will be accepted from any of the Unit Owners present. Voting will be non-cumulative with each Association member having a vote equal to his percentage of interest in the general common elements. Board members shall serve for one year and shall be elected by majority vote of those present at any annual or special

meeting. The first Board consisting of three (3) persons shall be appointed by the declarants in the Declaration, which Board shall serve until the first annual meeting of the Association at which time a new Board shall be elected.

8. Powers and Duties of the Board of Directors:

The Board of Directors shall have the following powers and duties:

- a. To call annual meetings of the Association and give due notice thereof.
- b. To conduct elections of the Board of Directors.
- c. To enforce the provisions of the Declaration and By-Laws of the Townhouse Condominium, by appropriate action.
- d. To promulgate and adopt rules and regulations for the use of the common elements and for the occupancy of the units so as to not interfere with the peace and quiet of all the residents. Such rules must be approved by seventy-five percent (75%) of the Unit Owners at any regular or special meeting of the Association.
- e. To provide for the management of the Townhouse Condominium, by hiring or contracting with suitable and capable management and personnel for the day-to-day operation, maintenance, upkeep and repair of the general common and limited common elements.
- f. To levy assessments as allowed by the Declaration, these By-Laws and the State of Montana, and to provide for the collection, expenditure and accounting of said assessments.
- g. To pay for the expenses of the maintenance, repair and upkeep of the general common elements and the limited common elements, and to approve payment vouchers either at regular or special meetings.
- h. To delegate authority to the Manager for the conduct of condominium business, to carry out the duties and powers of the Board, however, such authority shall be precisely defined with ultimate authority at all time residing in the Board of Directors.
- i. To provide a means of hearing grievances and foreclosure proceedings of Unit Owners and and to observe all due process requirements imposed upon owners associations for condominiums.
- j. to meet at regularly scheduled times and hold such meetings open to all Unit Owners or their agents.
- k. To prepare an annual budget for the condominium in order to determine the amount of the assessments payable by the Unit Owners to meet the general common and limited common expenses and allocate and assess such charges among the Unit Owners according to their respective interests in the general common and limited common elements, and to submit such budget to the Unit Owners on or before the date of the annual meeting.
- l. To levy and collect special assessments whenever, in the opinion of the Board it is necessary to do so in order to meet increased operating or maintenance expenses, costs, or additional capital expenses, or because of emergencies.
- m. To take appropriate legal action to collect any delinquent assessments, payments or amounts due from Unit Owners or from any person or persons owing money to the condominium, and to levy a penalty

and to charge interest on unpaid amounts due and owing.

- n. To defend in the name of the Association any and all lawsuits wherein the Townhouse Condominium is a party defendant.
- o. To enter into contracts with third parties to carry out the duties herein set forth, for and in behalf of the Board and the Association.
- p. To establish a bank account for the Townhouse Condominium, and to keep therein all funds of the Association. Withdrawal of monies from such accounts shall only be by checks signed by such persons as are authorized by the Board of Directors.
- q. In general, to act for and carry on the administration and affairs of the Association as authorized and prescribed by the Declaration and to do all those things which are necessary and reasonable in order to carry out the governance and operation of the Townhouse Condominium.
- r. To establish rules and regulations for conduct, behavior and use of the general common and limited common elements.
- s. To make repairs, alterations and improvements to the general common and limited common elements consistent with managing the condominiums in a first class manner and in the best interest of the Unit Owners.
- t. To arrange, keep, maintain and renew the insurance for the Association as set forth in the Declaration.
- u. To carry out the duties and responsibilities of the Board in all other matters as may be authorized, needed or required by the Declaration.

9. Due Process:

In the event there shall be default by a Unit Owner or violation of any of the provisions of the Declaration or By-Laws or non-compliance, notice of the same shall be sent to the Owner in writing by the Board of Directors setting forth the nature of the violation or non-compliance and providing for a time certain when the Unit Owner may appear before the Board to respond. At such hearing the Unit Owner shall be confronted by the person or persons bringing the charges if they are individuals other than the Board members, the Owner shall have an opportunity to cross-examine such individuals and present his own witnesses, exhibits or testimony in his own behalf. At such hearing if the Owner desires he may request an impartial hearing examiner to be present to conduct the proceedings. Following such hearing the Board shall enter its findings of fact following the recommendations of any examiner and setting forth their decision and any actions it deems appropriate if they find in fact that a violation or default has occurred.

10. Vacancies and Removal:

Should a vacancy occur on the Board of Directors, the Board, subject to the exception described below, shall appoint a member of the Association to serve for the unexpired term. Such vacancy shall be filled no later than the next regular Board meeting after which it occurs. Should such vacancy not be filled by the Board at the next regular meeting of the Association, the Association may fill such vacancy.

At any regular or special meeting of the Association, any member of the Board may be removed by a majority of the aggregate interests in the Condominium. Such vacancy shall be filled by the Association. Such

removal matter must be announced in the notice of such regular or special meeting. The personal delivery of such notice by the Secretary of the Association shall be considered notice served.

11. Compensation:

No member of the Board of Directors shall receive any compensation for acting as such. Nothing herein, however, shall be construed to preclude compensation being paid to Managers who are hired by the Board of Directors.

12. Managers:

The Manager shall be appointed and/or removed by the Board of Directors. The Manager or any member of the Board or Association shall be bonded, and shall have maintained records of the financial affairs of the condominium. Such records shall also detail all assessments made by the Association and the status of payments of said assessments by all Unit Owners. All records shall be available for examination during normal business hours to any Unit Owner or his assigned representative. All functions and duties herein provided for the Manager may be performed by the Board, or the Chairman, if the Board should decide not to have a manager.

- a. Accounts: The receipts and expenditures of the Association shall be under the direction of the Manager and be classified as appropriate into general common expenses and limited common expenses and shall include a provision for:
  1. Current Expenses: Which shall include all receipts and expenditures to be made within the year for which the budget is made, including a reasonable allowance for contingencies and working funds, except expenditures chargeable to reserve or to betterments. The balance in this fund at the end of each year shall be applied to reduce the assessments for current expenses for the succeeding year.
  2. Reserve for Deferred Maintenance: Which shall include funds for maintenance items which occur less frequently than annually.
  3. Reserve for Replacement: Which shall include funds for repair or replacement required because of damage, depreciation or obsolescence.
  4. Betterments: Which shall include the funds to be used for capital expenditures for additional improvements or additional personal property which shall be a part of the common elements.
- b. The Manager shall prepare and submit to the Board a budget, each calendar year, which must be approved then and adopted by the Board. The budget shall include the estimated funds required to defray the general common and limited common expenses and to provide and maintain funds for the foregoing accounts according to good accounting practices.
 

Copies of the budget and proposed assessments shall be transmitted to each member on or before December 4, preceeding the year for which the budget is made. If the budget is subsequently amended, a copy of the amended budget shall be furnished to each member.
- c. A financial report of the accounts of the Association shall be made annually by an accountant, and a copy of the report shall be furnished to each member at the annual meeting.

- d. In the event a management contract is executed the same shall provide that it may be terminated by either party at any time upon 90 days written notice.

The Manager shall generally operate and manage the condominium for and in behalf of the Units Owners and shall have such other powers and authority as the Board may delegate.

13. Amendment of By-Laws:

These By-Laws may be amended at any regular or special meeting of the Association providing that a copy of the proposed revision is included in the notice of such meeting. Upon a vote of over 75% of the aggregate interest in the condominium, the amendment shall be declared adopted. The Secretary shall as soon as practicable after adoption, prepare a copy of these By-Laws as amended for certification by the Chairman and Secretary of the Association. Such amended and certified By-Laws shall then be filed and recorded in the office of the Clerk and Recorder of Gallatin County, State of Montana. By-Laws as amended shall become effective at the time of such recording.

14. Assessments:

In accordance with the percentage of interest in the general common elements as set forth in the Declaration, each Unit Owner shall be assessed for general common expenses. Such assessments, and assessments for limited common expenses shall be collected and paid according to the terms and under the procedures more particularly set forth in the Declaration. The amount of assessments described above and any other assessments allowed by these By-Laws, the Declaration and by the State of Montana shall be fixed by the Board of Directors. Notice of each owner's assessments shall be mailed to said owner at his address of record.

15. The Declaration:

E & E SERVICE, INC., MARK REFLING, ARCHIE L. BRYAN and MARJORIE BRYAN have filed along with these By-Laws, a Declaration, whereby the properties known as the Townhouse Condominium are submitted to Title 67, Chapter 23, R.C.M., 1947. The Declaration shall govern the acts, powers, duties and responsibilities of the Association of Unit Owners and in the event these By-Laws and the Declaration are in conflict, the Declaration shall prevail.

The definition of terms set forth in the Declaration shall be applicable throughout these By-Laws, and the interpretation thereof.

By virtue of these By-Laws and the Declaration, each Unit Owner has the right to membership in the Association of Unit Owners and and Unit Owner may be on the Board of Directors of the Townhouse Condominium.

The Townhouse Condominium Association of Unit Owners and its Board of Directors shall have primary and final authority on all matters solely affecting the condominium area, subject to the laws, rules and regulations of the City of Bozeman, County of Gallatin, State of Montana.

IN WITNESS WHEREOF, E & E SERVICE, INC., MARK REFLING, ARCHIE L. BRYAN and MARJORIE BRYAN as the owners of record of all of the condominium units and 100% of the voting interests of the said Townhouse Condominium as of the date hereof, hereby appoint the following persons to serve on the Board of Directors until the first meeting of the Association to-wit:

Chairman: MARK BRYAN

Secretary: MARK REFLING



Treasurer: STANLEY ERLENBUSH

And E & E SERVICE, INC., MARK REFLING, ARCHIE L. BRYAN and MARJORIE BRYAN and the said Board hereby declare and affirm the adoption of the foregoing By-Laws on the 18 day of August, 1977.

E & E SERVICE, INC.

BY: [Signature]  
STANLEY W. ERLENBUSH, President

[Signature]  
MARK BRYAN

ATTEST:

[Signature]  
DOLORES H. ERLENBUSH, Secretary

[Signature]  
MARK REFLING

[Signature]  
STANLEY ERLENBUSH  
Archie L. Bryan by Mark Bryan, agent  
ARCHIE L. BRYAN

Marjorie Bryan by Mark Bryan, agent  
MARJORIE BRYAN

[Signature]  
MARK REFLING

STATE OF MONTANA )  
                               ) SS.  
COUNTY OF GALLATIN )

On this 18 day of August, 1977, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared STANLEY W. ERLENBUSH and DOLORES H. ERLENBUSH, the President and Secretary respectively of E & E SERVICE, INC., and known to me to be the persons whose names are subscribed to the within instrument and they acknowledged to me that they executed the same on behalf of the said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

[Signature]  
Notary Public for the State of Montana  
Residing at Bozeman, Montana  
My commission expires: 6-1-79

STATE OF MONTANA )  
                               ) SS.  
COUNTY OF GALLATIN )

On this 18 day of August, 1977, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared MARK BRYAN, MARK REFLING and STANLEY ERLENBUSH, known to me to be the persons whose names are subscribed to the within instrument and they acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal  
the day and year first above written.

*Margaret Skeritt*

Notary Public for the State of Montana  
Residing at Bozeman, Montana  
My commission expires: 6-1-79

STATE OF MONTANA )  
COUNTY OF Callahan ) ss.

On this 18 day of August, 1977, before me, the undersigned,  
a Notary Public in and for the State of Montana, personally appeared ARCHIE  
L. BRYAN and MARJORIE BRYAN, known to me to be the persons whose names  
are subscribed to the within instrument and they acknowledged to me that  
they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal  
the day and year first above written.

*Margaret Skeritt*

Notary Public for the State of Montana  
Residing at Bozeman, Montana  
My commission expires: 6-1-79

\$8.00

Rt: Penwell & Bryan

INDEXED  
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FILM 39 PAGE 2158

State of Mont., County of Gallatin, as filed for record October 3, 1977  
at 4:00 P. M., and recorded in Book 39 of MISCELLANEOUS page 2158  
Carl L. Stack Recorder. By Stanley W. Erlenbush Deputy

CERTIFICATE OF AMENDMENT

The undersigned herewith certify that the within amendment to that certain Declaration for the Townhouse Condominium previously recorded in Book 37, Page 2035 on June 8, 1977, and as amended and recorded in Book 38, Page 1039 on July 13, 1977, and as amended and recorded in Book 38, Page 2666 on August 18, 1977, in the office of the County Clerk and Recorder of Gallatin County, Montana, has been amended by and through the authority of more than 75% of the owners of land and units contained in the said Townhouse Condominium, being the owners of record of said real property as of the date hereof.

The within amendment amends pages 1 and 2 of the Amended Declaration for the Townhouse condominium recorded in Book 38, Page 2666 on August 18, 1977.

Dated: October 3, 1977

E & E SERVICE, INC.

Attest:

BY: Stanley W. Erlenbush  
STANLEY W. ERLNBUSH, President

Dolores H. Erlenbush  
DOLORES H. ERLNBUSH, Secretary

Mark Repling  
MARK REPLING, Unit Owner

Archie Bryan by Mark Bryan, agent  
ARCHIE L. BRYAN, Unit Owner

Marjorie Bryan by Mark Bryan, agent  
MARJORIE BRYAN, Unit Owner

STATE OF MONTANA                    )  
  ) ss.  
COUNTY OF GALLATIN                )

On this 3rd day of October, 1977, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared STANLEY W. ERLNBUSH and DOLORES H. ERLNBUSH, the President and Secretary respectively of E & E SERVICE, INC., known to me to be the persons whose names are subscribed to the within instrument and they acknowledged to me that that executed the same on behalf of the said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.



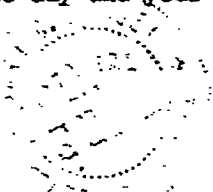
Sara C. Hansen  
Notary Public for the State of Montana  
Residing at Bozeman, Montana  
My commission expires: 8-2-80



STATE OF MONTANA )  
 ) ss.  
COUNTY OF GALLATIN )

On this 3rd day of October, 1977, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared MARK REFLING, known to me to be the person whose name is subscribed to the within instrument and he acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.



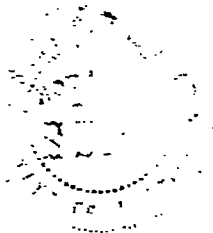
*Dea C. Hansen*

Notary Public for the State of Montana  
Residing at Bozeman, Montana  
My commission expires: 1-2-80

STATE OF MONTANA )  
 ) ss.  
COUNTY OF GALLATIN )

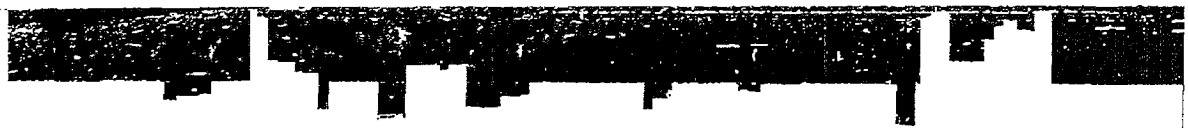
On this 3rd day of October, 1977, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared MARK A. BRYAN the agent for ARCHIE L. BRYAN and MARJORIE BRYAN, known to me to be the person whose name is subscribed to the within instrument and he acknowledged to me that he executed the same on behalf of ARCHIE L. BRYAN and MARJORIE BRYAN.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.



*Dea C. Hansen*

Notary Public for the State of Montana  
Residing at Bozeman, Montana  
My commission expires: 1-2-80



DECLARATION FOR  
TOWNHOUSE CONDOMINIUM

This Declaration is hereby made and entered into this 6th day of June, 1977, by E & E SERVICE, INC., a Montana Corporation, of 17 Sunset Heights, Bozeman, Montana - 59715, (hereinafter referred to as the "declarant"), whereby lands and property hereinafter described are submitted and subject to the Montana Unit Ownership Act pursuant to Chapter 23 of Title 67, Revised Codes of Montana, 1947, as amended.

The property subject to this Declaration shall be known as The Townhouse Condominium, (hereinafter referred to as the "condominium"). The address of the condominium is The Townhouse Condominium, 307 South 15th Street, Bozeman, Montana - 59715.

I. DEFINITIONS

Unless the context expressly provides otherwise, the following definitions shall pertain throughout this Declaration and in the interpretation thereof:

1. **Aggregate Voting:** shall mean the entire number of votes or persons present or available to vote in person or by proxy in a particular circumstance.
2. **Association or Association of Unit Owners:** means all of the Unit Owners acting as a group and in accordance with duly adopted By-Laws and this Declaration.
3. **Board or Board of Directors:** shall mean the Board of Directors of the Association as more particularly defined in the By-Laws.
4. **Building:** means the building(s) containing the condominium units.
5. **By-Laws:** means the By-Laws promulgated by the Association under this Declaration and the Unit Ownership Act.
6. **Common Elements:** means both general common elements and limited common elements.
  - a. **General Common Elements:** includes all those elements which are for the use of all residents and guests of residents of the Townhouse Condominium. Specifically included are: grounds surrounding the building, parking areas, driveways, the land on which the building is situated, paths and walkways, footings, foundations, framework, columns, trusses, supports, roof and other structural components of the building, exterior walls, gutters and vertical roof drains, electrical, gas, telephone, water and sewer lines and connections and the hot water furnace serving all of the units, landscaping, plants and other materials and improvements separate from and outside of the building containing the units, and other elements necessary for the safety, maintenance and existence of the condominium in which each Unit Owner shall have his designated percentage of interest, as set forth in paragraph IV below.
  - b. **Limited Common Elements:** as used in this Declaration shall mean those common elements which are reserved for the use of fewer than all of the residents and guests of residents of the Townhouse Condominium. Specifically, as to any given Unit Owner or Owners, limited common elements shall mean the following

common elements which are located within or affixed to the building containing his Unit in which these elements are located:

Flues, chimneys, ducts, cables, conduits, public utility lines, water, sewer, electrical, gas, cable television lines and hot and cold water pipes, (all such utility pipes and lines are limited common elements where they service only one or two units; where they service all units they shall be general common elements), entrances, patios, hot water tanks, heating ducts, cold air returns, washer and dryer hook-ups, and fixtures or other portions of the building servicing only a particular unit or less than all of the units. The percentage of the units interest in the limited common elements shall be computed by determining the number of units that have use of the limited common elements and taking the value of each such unit and dividing it by the value of the unit or all such units making use of the particular limited common element. Such values shall be the same as the values used to compute the percentage of interest of the unit owners in the general common elements and shall be the value of the units at the date of filing this Declaration and which are set forth in this Declaration.

7. **Common Expenses:** means expenses of administration, maintenance, repair or replacement of general common elements, expenses agreed upon by the Association of all Unit Owners, and expenses declared common by the Unit Ownership Act.
8. **Declaration:** means this document and all parts attached thereto or incorporated by reference.
9. **Limited Expenses:** means the expenses attributable to the maintenance, repair and replacement of limited common elements.
10. **Manager:** means the manager, the Board of Directors, management corporation or any other person or group of persons retained or appointed by the Board, or by the Association of Unit Owners for the purpose of conducting the day-to-day operations of the Townhouse Condominium.
11. **Property:** means all the land, buildings, improvements and structures thereon and all easements, rights and appurtenances belonging thereto, which are herewith submitted to the Unit Ownership Act.
12. **Record Officer:** means the county officer charged with the duty of filing and recording the deeds, mortgages and all other instruments and documents relating to this Declaration and the property to which it is subject.
13. **Unit:** shall be the separate condominium units of the Townhouse Condominium and is a parcel of real property including and containing one or more rooms occupying one or more floors or a part or parts thereof, intended for any type of independent use, and with a direct exit to a street or highway or to common elements leading to a street or highway.
14. **Unit Designation:** is the combination of letter, numbers and words which identify the designated units.
15. **Unit Owner or Owners:** means the person or persons owning a fee simple absolute, under the laws of the State of Montana, in one or more units of the Townhouse Condominium.