

BYLAWS

of

THE COUNCIL OF CO-OWNERS OF PIERSON WEST,  
A Horizontal Property Regime

I

DEFINITIONS

Section 1.01. "Tract" shall mean all of that certain real property located in the City of Phoenix, County of Maricopa, State of Arizona, and more particularly described as follows:

Parcel No. 1:

The South half of Lot 4, PIERSON PLACE, according to Book 16 of Maps, page 3, records of Maricopa County, Arizona: EXCEPT that portion lying within the West 63 feet of the North 155 feet of said Lot 4.

Parcel No. 2:

Lot 5, PIERSON PLACE, according to Book 16 of Maps, page 3, records of Maricopa County, Arizona.

Parcel No. 3:

The South half of Lot 6; and the West 63.28 feet of the North half of Lot 6, PIERSON PLACE, according to Book 16 of Maps, page 3, records of Maricopa County, Arizona.

Parcel No. 4:

Non-exclusive easement and right of way for ingress and egress over the West 14.07 feet of Lot 3; EXCEPT the South 20 feet thereof; the South 20 feet of Lots 3, 7 and 8; and the East 14.07 feet of Lot 8; EXCEPT the South 20 feet thereof, PIERSON PLACE, according to Book 16 of Maps, page 3, records of Maricopa County, Arizona.

Section 1.02. "Declaration" shall mean that certain Declaration of Covenants, Conditions and Restrictions applicable to the Tract and filed in the Office of the Recorder of the County of Maricopa on \_\_\_\_\_, 19\_\_\_\_, in Book \_\_\_\_\_, at Page \_\_\_\_\_ and following, as the same may be amended from time to time in accordance with the terms thereof.

Section 1.03. Other terms used herein shall have the meaning given to them in the Declaration of Covenants, Conditions and Restrictions, recorded in the Official Records of Maricopa County, in Book \_\_\_\_\_, at Page \_\_\_\_\_, and are hereby incorporated by reference and made a part hereof.

II

QUALIFICATIONS FOR MEMBERSHIP

Section 2.01. Proof of Membership. No person or persons shall exercise the rights of membership until satisfactory proof

has been furnished to the Board of Governors of qualification as a member or nominee of a member pursuant to the terms of the Declaration. Such proof may consist of a copy of a duly executed and acknowledged grant deed or title insurance policy showing said person or the person nominating him is qualified in accordance therewith, which said deed or policy shall be deemed conclusive in the absence of a conflicting claim based upon a latter deed or policy. The sole qualification for membership shall be ownership of a condominium in the project. The voting shares appurtenant to the membership shall be determined according to the provisions set forth in the Declaration. No membership may be separated from the property to which it is appurtenant, provided, however, that the privileges of ownership may be exercised by a nominee of an owner designated in writing so long as (1) the nominee is a resident on the property to which the membership is appurtenant; (2) no charge is made for use of the membership in excess of the amount of any assessments levied against the owner by reason thereof; and (3) any such assignment of privileges is revocable at the will of the owner.

Section 2.02. No Additional Qualifications. No initiation fees, costs or dues shall be assessed against any person as a condition upon his exercise of the rights of membership except such assessments, levies and charges as are specifically authorized by the Declaration.

### III

#### VOTING RIGHTS

Section 3.01. Exercise of Voting Rights. Any person entitled to vote may attend and vote at meetings in person, or by proxy holder duly appointed by a written proxy and signed by the member and filed with the Secretary. Votes may be cast either viva voce or by ballot. Any proxy shall be for a term of not to exceed eleven (11) months unless otherwise expressly provided therein and may be revoked at any time by written notice to the Secretary. It shall be deemed revoked when the Secretary shall receive actual notice of the death or judicially declared incompetence of such member or any person holding an undivided interest in such membership or upon disqualification of the member to exercise the rights of membership pursuant to the terms hereof. Where a membership is owned by more than one person, any proxy with respect to such membership shall be signed by a voting owner only.

### IV

#### MEETINGS OF MEMBERS

Section 4.01. Quorum. The presence at any meeting of the members having a majority of the total votes shall constitute a quorum. Unless otherwise expressly provided herein, any action may be taken at any meeting of the members upon the affirmative vote of a majority of the total votes present at such meeting in person or by proxy. If any meeting cannot be held because a quorum is not present, the Owners present, either in person or by proxy, may, as otherwise provided by law, adjourn the meeting to a time not less than forty-eight (48) hours nor more than thirty (30) days from the time the original meeting was called, at which

time the quorum requirement shall be at least twenty-five percent (25%) of the total votes.

Section 4.02. Annual Meeting. There shall be a meeting of the members on the \_\_\_\_\_ of \_\_\_\_\_ of each year at \_\_\_\_\_ p.m. upon the common area or at such other reasonable place or time (not more than sixty [60] days before or after such date) as may be designated by written notice of the Board delivered to the members not less than seven (7) nor more than sixty (60) days prior to the date fixed for said meeting.

Section 4.03. Special Meetings. Special meetings of the members may be called at any time for the purpose of considering matters which, by the terms of the Declaration or these By-Laws, require the approval of all or some of the members, or for any other reasonable purpose. Said meetings shall be called by written notice, signed by the President or by the members having one-third (1/3) of the total votes and delivered not less than fifteen (15) nor more than thirty (30) days prior to the date fixed for said meeting. Said notices shall specify the date, time and place of the meeting and the matters to be considered thereat.

## V

### NOTICES

Section 5.01. Method for Giving Notice. Any notice permitted or required to be delivered as provided herein may be delivered either personally or by mail. If delivery is by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed to each such person at the address given by such person to the Secretary of the governing body for the purpose of service of such notice or to the Unit of such person if no address has been given to the Secretary. Such address may be changed from time to time by notice in writing to the Secretary.

## VI

### POWERS

Section 6.01. Exercise of Powers. The powers of the Council of Co-Owners shall be vested in, exercised by, and under the authority of, and the affairs of the Council of Co-Owners shall be controlled by the Board of Governors consisting of three persons. The Board members shall be Owners.

## VII

### ELECTION, TENURE, AND PROCEEDINGS OF THE BOARD OF GOVERNORS

Section 7.01. Election. At each annual meeting, the members shall elect a Board of Governors for the forthcoming year, consisting of three persons. Every member entitled to vote at any election may cumulate his votes and give one candidate a number of votes equal to the number of directors to be elected, multiplied by the number of votes to which such members are otherwise entitled, or distribute his votes on the same principle among

as many candidates as he thinks fit. The candidates receiving the highest number of votes up to the number of governors to be elected shall be deemed elected.

Section 7.02. Term and Removal. Members of the Board shall serve for a term of one (1) year and until the respective successors are elected, or until the death, resignation, or removal, whichever is the earlier: and provided further that if any Board member ceases to be a member of the Council of Co-Owners, his Board membership shall thereupon terminate. Any Board member may resign at any time by giving written notice to the President or Secretary, and any person may be removed from office by vote of the Council of Co-Owners: provided, that unless the entire Board is removed, an individual member shall not be removed if the number of votes against his removal exceeds the quotient arrived at when the total number of votes is divided by one plus the authorized number of members of the Board.

Section 7.03. Vacancies. Vacancies on the Board shall be filled by a majority of the remaining Board members though less than a quorum, and each Board member so elected shall hold office until his successor is elected by the Owners. Upon tender of resignation by a Board member, the Board shall have the power to elect his successor to take office at such time as the resignation becomes effective.

Section 7.04. Conduct of Business. A majority of the Board shall constitute a quorum and, if a quorum is present, the decision of a majority of the members present shall be the act of the Board. Meetings of the Board may be called, held, and conducted in accordance with such regulations as the Board may adopt. The Board may also act without a meeting by unanimous written consent of its members.

Section 7.05. Tenure of Initial Board. The Board members elected as the initial Board pursuant to the Declaration shall serve until the first meeting which shall be held sixty (60) days after a date when units representing 51% of the voting power of the owners have been sold, or until the date one year from the sale of the first condominium, whichever occurs first; whereupon the President shall call the first special meeting for the purpose of electing a new Board pursuant to the terms hereof.

## VIII

### POWERS AND DUTIES OF THE BOARD OF GOVERNORS

Section 8.01. Powers and Duties Set Forth in Declarations. The Board of Governors shall have the exclusive right and responsibility to perform diligently all of the obligations and functions of the Council of Co-Owners as set forth in the Declaration and shall have all rights of the Council of Co-Owners in connection therewith.

Section 8.02. Accounting for Maintenance Fund. At the annual meeting, the Board shall present to the members a written statement of the maintenance fund, itemizing receipts and disbursements for the preceding calendar year, the allocation thereof to each

member, and the estimated maintenance for the coming calendar year. Within ten (10) days after the annual meeting, said statement shall be mailed to each member in the manner provided for giving of notices hereunder. The Board shall cause to be maintained a full set of books and records showing the financial condition of the affairs of the Council of Co-Owners in a manner consistent with generally accepted accounting principles.

Any Co-Owner may at any time at his own expense cause an audit or inspection to be made of the books and records of the Board. The Board, at the expense of the maintenance fund, shall obtain an audit of all books and records pertaining to the project at no greater than annual intervals and shall furnish copies thereof to the Co-Owners within thirty (30) days of completion of said audit.

Section 8.03. Other Books and Records. The Board shall cause to be maintained a complete record of all the minutes and acts and of the proceedings of the members. Such records and documents shall be kept and maintained in a manner consistent with reasonably prudent practice which would be applicable to a business for profit.

Section 8.04. Appointment and Removal. The Board shall appoint and remove at pleasure all officers, agents, and employees of the Council of Co-Owners, prescribing their duties, fixing their compensation, and requiring from them security or fidelity bonds for faithful performance of the duties to be prescribed for them to the extent deemed reasonably necessary by the Board.

Section 8.05. Supervision of Officers. The Board shall supervise all officers, agents and employees of the Council of Co-Owners, and see that their duties are properly performed.

Section 8.06. Parking. The Board shall be empowered to designate parking spaces appurtenant to some or all of the condominium units. Once designated, such parking area may not be changed except by unanimous vote of the Board.

## IX

### OFFICERS

Section 9.01 Enumeration of Officers. The officers of this Association shall be a President and Vice President, who shall at all times be members of the Board of Governors, and a Secretary and Treasurer, and such other officers as the Board may from time to time by resolution create.

Section 9.02. Term. The officers of this Council of Co-Owners except such officers as may be appointed in accordance with Section 9.03 or 9.05 of this Article, shall be chosen annually by the Board and each shall hold his office for one (1) year unless he shall sooner resign or shall be removed, or otherwise disqualified to serve.

Section 9.03. Special Appointments. The Board may appoint such other officers as the affairs of the Council of Co-Owners may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may from time to time determine.

Section 9.04. Resignation and Removal. Any officer may be removed from office either with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect at the date of receipt of such notice or at any later time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Upon resignation or removal of an officer, the position shall be filled in the manner prescribed in the ByLaws for regular appointment to such office. The appointee to such vacated office shall serve the remainder of the term of the officer he replaces.

Section 9.05. Multiple Offices. The offices of Secretary or Assistant Secretary and Treasurer may be held by the same person. No person shall be appointed to more than one of any of the other offices except in the case of special offices created pursuant to Section 9.03 of this Article.

## X

### PRESIDENT

Section 10.01. Election. At the first annual meeting, the Board shall elect one of their number to act as President.

Section 10.02. Duties. The President shall:

- (a) Preside over all meetings of the members and of the Board;
- (b) Sign as President all deeds, contracts, and other instruments in writing which have been first approved by the Board, unless the Board, by duly adopted resolution, has authorized the signature of a lesser officer;
- (c) Call meetings of the Board whenever he deems it necessary in accordance with rules and upon notice agreed upon by the Board. The notice period shall, with the exception of emergencies, in no event be less than three (3) days;
- (d) Have, subject to the advice of the Board, general supervision, direction, and control of the affairs of the Council of Co-Owners and discharge such other duties as may be required of him by the Board.

## XI

### VICE PRESIDENT

Section 11.01. Election. At its first meeting, the Board shall elect one of its members to act as Vice President.

Section 11.02. Duties. The Vice President shall:

- (a) Act in the place and in the stead of the President in the event of his absence, inability, or refusal to act;
- (b) Exercise and discharge such other duties as may be required of him by the Board. In connection with any such additional duties, the Vice President shall be responsible to the President.

XII

SECRETARY AND ASSISTANT SECRETARY

Section 12.01. Election. At its first meeting, the Board shall elect a Secretary.

Section 12.02. Duties. The Secretary shall:

- (a) Keep a record of all meetings and proceedings of the Board and of the members;
- (b) Serve such notices of meetings of the Board and the members required either by law or by these ByLaws;
- (c) Keep appropriate current records showing the members of this Council of Co-Owners together with their addresses;
- (d) Sign as Secretary all deeds, contracts, and other instruments in writing which have been first approved by the Board if said instruments require a second Council of Co-Owners signature unless the Board has authorized another officer to sign in the place and stead of the Secretary by duly adopted resolution.

XIII

TREASURER

Section 13.01. Election. At its first meeting, the Board shall elect a Treasurer.

Section 13.02. Duties. The Treasurer shall:

- (a) Receive and deposit in such bank or banks as the Board may, from time to time, direct all of the funds of the Council of Co-Owners;
- (b) Be responsible for and shall supervise the maintenance of books and records to account for such funds and other Council of Co-Owners assets;
- (c) Disburse and withdraw said funds as the Board may from time to time direct and in accordance with prescribed procedures.

XIV

SUBORDINATE OFFICERS

Section 14.01. Appointment. The Board may appoint such subordinate officers as it deems desirable from time to time.

Section 14.02. Duties. Such subordinate officers shall have the duties that the Board may, from time to time, prescribe, including the right to act in the place and stead of such officers, other than the President, as the Board may designate.

XV

CERTIFICATES OF MEMBERSHIP

Section 15.01. Issuance of Certificates. The Board of Governors may provide for the issuance of certificates evidencing membership in the Association which shall be in such form as may be determined by the Board. All certificates evidencing membership shall be consecutively numbered. The name and address of each member and the date of issuance of the certificate shall be entered on the records of the Council of Co-Owners maintained

by the Secretary. If any certificate shall become lost, mutilated, or destroyed, a new certificate may be issued therefor upon such terms and conditions as the Board may direct.

XVI

MISCELLANEOUS

Section 16.01. Inspection of Books and Records. The books, records, and such papers as may be placed on file by the members or the Board shall, at all times during reasonable business hours, be open to inspection by any member.

Section 16.02. Amendment of These ByLaws. ByLaws may be adopted, amended, or repealed by the vote or written assent of members holding two-thirds or more of the total votes.

Section 16.03. Consent to Waiver of Notice. The transactions of any meeting of the members, however called or noticed, shall be as valid as though made at a meeting duly held after regular call and notice if a quorum be present, in person or by proxy, if either before or after the meeting, each member entitled to vote but not present thereat signs a written waiver of notice, or a consent to the holding of such meeting, or approval of the true and correct minutes thereof. All such waivers, consents, or approvals shall be filed with the corporate records and made a part of the minutes of the meeting.

CERTIFICATE OF SECRETARY

KNOW ALL MEN BY THESE PRESENTS THAT:

The undersigned, Secretary of the Council of Co-Owners of PIERSON WEST, a horizontal property regime, does hereby certify that the above and foregoing ByLaws were duly adopted by the Board of Governors of said Council of Co-Owners on the 15<sup>th</sup> day of March, 1974, and that they now constitute said ByLaws.

  
Secretary



Pursuant to Article XXII, DECLARATIONS OF HORIZONTAL PROPERTY REGIME AND OF COVENANTS, CONDITIONS AND RESTRICTIONS OF PIERSON WEST (Declarations) the provisions of said Declarations are hereby amended as follows:  
(Added language is underlined; repealed language is deleted)

Article XI(A) is amended to read as follows:

XI. (A) At each annual meeting the Council of Co-Owners shall elect a Board of Governors for the forthcoming year whether or not a majority of record Owners is present but as long as not less than ten (10%) percent of the Owners are present, consisting of three (3) Co-Owners, provided . . . [remainder of Article XI remains unchanged]

Article XII (I) is amended to read as follows:

XII.(I) Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, taxes, or assessments (including late charges and/or interest fees levied upon owners delinquent in assessment payments and vehicle towing charges attributable to owners responsible for improperly parked vehicles) which the Board is required to secure or pay for pursuant to the terms of this Declaration or by law or which in its opinion shall be necessary or proper for the operation of the Common Area or for the enforcement of this Declaration, provided that if such materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, taxes, or assessments are provided for particular units (including any late charges and/or interest fees levied upon owners delinquent in payment of assessments and vehicle towing charges), the cost thereof shall be specifically assessed to the Owners of such units.

A new Article XIV(E) shall be added to

read as follows:

XIV. (E) If any assessment(s) levied upon the Owners pursuant to Paragraph (A) of this Article XIV are unpaid and/or delinquent at any time, the Board shall be empowered to immediately cause a lien to be placed on the condominium of any Owners responsible for any such unpaid and/or delinquent assessment(s). In order to impress and secure the lien provided for in this Paragraph, the Board (or its authorized agent) shall record a Notice of Lien with the Maricopa County Recorder. The cost of recording and/or releasing said lien shall be specifically assessed to the Owner of the property on which said lien is recorded. The Board of Governors, on behalf of the Council of Co-Owners, may at any time commence legal proceedings to collect such unpaid and/or delinquent assessments, including an action to foreclose on such lien.

Article XXI, line 5, shall read as follows:

The Board, at the expense of the maintenance fund, shall ~~may~~ . . . [remainder of Article XXI remains unchanged]

THE FOREGOING AMENDMENTS TO THE DECLARATIONS ARE HEREBY SIGNED AND ACKNOWLEDGED BY THE FOLLOWING:

<u>RECORD OWNER</u>	<u>UNIT NO.</u>	<u>DATE</u>
<u>Michael D. Yelen</u> Michael D. Yelen	<u>F-9</u>	<u>5-21-84</u>
<u>Cheryl Yelen</u> Cheryl Yelen		<u>5-21-84</u>

SUBSCRIBED AND SWORN to before me this 21 day of MAY, 1984.

Anthony Bartolomucci  
Notary Public

My Commission Expires:  
ANTHONY BARTOLOMUCCI

Notary Public, Wayne County, Mich.

~~My Commission Expires Oct. 28, 1984~~

A new Article XIV(E) shall be added to  
read as follows:

XIV. (E) If any assessment(s) levied upon the Owners pursuant to Paragraph (A) of this Article XIV are unpaid and/or delinquent at any time, the Board shall be empowered to immediately cause a lien to be placed on the condominium of any Owners responsible for any such unpaid and/or delinquent assessment(s). In order to impress and secure the lien provided for in this Paragraph, the Board (or its authorized agent) shall record a Notice of Lien with the Maricopa County Recorder. The cost of recording and/or releasing said lien shall be specifically assessed to the Owner of the property on which said lien is recorded. The Board of Governors, on behalf of the Council of Co-Owners, may at any time commence legal proceedings to collect such unpaid and/or delinquent assessments, including an action to foreclose on such lien.

Article XXI, line 5, shall read as follows:

The Board, at the expense of the maintenance fund, ~~shall~~ may . . . [remainder of Article XXI remains unchanged]

THE FOREGOING AMENDMENTS TO THE DECLARATIONS ARE HEREBY SIGNED AND ACKNOWLEDGED BY THE FOLLOWING RECORD OWNERS:

<u>Graham A. James</u>	<u>Unit C-5</u>	<u>12 MARCH 84</u>
<u>Jay A. Franklin</u>	<u>Unit E-3</u>	<u>12 MARCH 84</u>
<u>Thomas J. Patel</u>	<u>Unit E-1</u>	<u>12 MARCH 84</u>
<u>Ferry James Himes</u>	<u>D-5</u>	<u>12 MARCH 84</u>
<u>Ruben Rodriguez</u>	<u>F4</u>	<u>12 MARCH 84</u>

James F. Jacobson, Unit C-1 3/14/84

D.R. Head UNIT A-4 03-14-84

Alden P. Howard Unit C-3 3-14-84

Joseph Madala A. Madala Unit B-6 3/14/84

Louis D. Head Unit A-2 3/14/84

James D. Spence unit B-1 3-15-84

James A. Simmons & Grace Simmons unit E-9 3-18-84

Wally L. York UNIT F-2 3/18/84

Alan D. Fry Unit E-1 3/18/84

~~Blair B. B. B.~~ D-1 3-21-84  
3-18-84

Michael W. Johnson A-6 3-18-84

Lade Y. Maddell E-7 3-20-84

John H. Halley E-8 3-21-84

W. J. ... D-4 3-22-84

Mary Elizabeth LaZere

B-3

4/3/84

STATE OF ARIZONA    )  
                          )    ss.  
County of Maricopa )

On the above noted dates, before me, the under-  
signed Notary Public, personally appeared the above-named  
persons, known to me to be the persons who subscribed to  
the foregoing Amendments to the above mentioned Declarations,  
whom acknowledged that they executed same for the purposes  
therein contained.

IN WITNESS WHEREOF I HAVE HEREUNTO SET MY  
HAND AND OFFICIAL SEAL.

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

My Commission Expires:

~~My Commission Expires Feb. 12, 1988~~