

K.D.

DECLARATION

ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP

WHEREAS, THE CITADEL, a partnership consisting of WILLIAM J. COOLEY and JAMES D. LYONS, (hereinafter referred to as "Grantor") owns certain real property herein described; and

WHEREAS, said Grantor has improved said property by constructing thereon a thirty-six (36) unit multi-family structure known as THE CITADEL, said structure having been constructed in accordance with plans and specifications prepared by Dale B. Haller, Registered Professional Engineer #5190, said plans being on record in the County of Multnomah, State of Oregon, and consisting of Drawings numbers 1 - 21 pages.

WHEREAS, said Grantor hereby establishes by this declaration a plan for the individual ownership of the real property estates consisting of the area or space contained in each of the apartment units in said multi-family structures, and the co-ownership by the individual and separate owners thereof, as tenants in common, of all of the remaining real property which is hereinafter defined and referred to herein as the "General Common Elements."

NOW, THEREFORE, said Grantor, the fee owner of the following described property, to-wit:

Lot 12, EXCEPT the South 10 feet which is in S. E. Stark Street and the East 5 feet which is in S. E. 129th Avenue; Lot 13, EXCEPT the South 10 feet which is in S. E. Stark Street; Lot 14, EXCEPT the East 5 feet which is in S. E. 129th Avenue; and the South 21 feet of Lot 15, EXCEPT the East 5 feet which is in S. E. 129th Avenue, FAIR ACRES, in the County of Multnomah and State of Oregon.

hereby makes the following declaration as to divisions, covenants, restrictions, limitations, conditions and uses to which the above-described real property and improvements thereon, consisting of a 36-unit multi-family project, may be put, hereby specifying that said declaration shall constitute covenants to run with the land and shall be binding on said Grantor, its successors and assigns, and all subsequent owners of all or any part of said real property and improvements, together with their grantees, successors, heirs, executors, administrators, devisees or assigns:

A. Said Grantor, in order to establish a plan of condominium ownership pursuant to the Oregon Unit Ownership Law for the above-described property and improvements, hereby covenants and agrees that it hereby divides said real property into the following separate freehold estates:

1. The 36 separately designated and legally described freehold estates consisting of the spaces or areas, being the area or space contained in the perimeter walls of each of the 36 apartment units in said multi-family structures constructed on said property; said spaces being defined, and referred to herein, as "apartment spaces." The thirty-six (36) apartment spaces contained within six (6) two-story, non-basement structures of wood frame construction with cedar shake roofs and wood siding plus exterior brick trim. Apartment spaces designated "A" have an approximate area of 997 square feet; "B" units have an approximate area of 1,273 square feet. "A" units bearing odd numbers are on the ground floor of a two-story building and "A" units bearing even numbers are on the upper floor of a two-story building. "B" units are two-story units known as "Town Houses."

2. A freehold estate consisting of the remaining portion of the real property is described and referred to herein as the "general common elements" which definition includes the multi-family structures and the property upon which it is located, and specifically includes, but is not limited to, the land, roofs, main walls, floors, slabs, staircases, lobbies, halls, carports, parking spaces, storage spaces, community facilities, trees, pavement, terraces, pipes, wires, conduits (but excluding air conditioners and ducts), and/or all utility facilities external to apartment spaces. General common elements do not include those elements hereinafter described as limited common elements.

B. For the purpose of this declaration, the ownership of each "apartment space" shall include the respective undivided interest in the general common elements and facilities specified and established in "E" hereof, and each "apartment space" together with the undivided interest is defined and hereinafter referred to as "family unit."

C. A portion of the "general common elements" is hereby set aside and allocated for the restricted use of the respective "apartment spaces," as is hereinafter designated, and as shown on survey and floor plans attached hereto, and said areas shall be known as "limited common elements."

D. The thirty-six individual "family units" hereby established and which shall be individually conveyed are described as follows: Family units:

Building No. 1 - A Units

- A-1 - Lower
- A-2 - Upper
- A-3 - Lower
- A-4 - Upper

Building No. 2 - A Units

- A-5 - Lower
- A-6 - Upper
- A-7 - Lower
- A-8 - Upper
- A-9 - Lower
- A-10 - Upper

Building No. 3 - A Units

- A-11 - Lower
- A-12 - Upper
- A-13 - Lower
- A-14 - Upper
- A-15 - Lower
- A-16 - Upper

Building No. 4 - A Units

- A-17 - Lower
- A-18 - Upper
- A-19 - Lower
- A-20 - Upper
- A-21 - Lower
- A-22 - Upper

Building No. 5 - A Units

- A-23 - Lower
- A-24 - Upper
- A-25 - Lower
- A-26 - Upper
- A-27 - Lower
- A-28 - Upper

Building No. 6 - B Units

- B-1 - Town House - Double Carport
- B-2 - Town House - Double Carport
- B-3 - Town House - Single Carport
- B-4 - Town House - Double Carport
- B-5 - Town House - Single Carport
- B-6 - Town House - Double Carport
- B-7 - Town House - Single Carport
- B-8 - Town House - Double Carport

E. The undivided interest in the "general common elements" hereby established and which shall be conveyed with each respective "family unit" is as follows:

Each "A" unit (lower) will be conveyed 2.6280% undivided interest in the general common elements.

Each "A" unit (upper) will be conveyed 2.6784% undivided interest in the general common elements.

Each "B" unit with single carport will be conveyed 3.1821% undivided interest in the general common elements.

Each "B" unit with double carport will be conveyed 3.2332% undivided interest in the general common elements.

The above respective undivided interests established and to be conveyed with the respective "family units" as indicated above, cannot be changed, and said Grantor, its successors and assigns, and grantees, covenants and agree that the undivided interests in the "general common elements" and the fee titles to the respective "family units" conveyed therewith, shall not be separated or separately conveyed, and each said undivided interest shall be deemed to be conveyed or encumbered with its respective "family unit" even though the description in the instrument of conveyance or encumbrance may refer to the fee title to the "family unit."

F. The proportionate shares of the separate owners of the respective "family units" in the profits and common expenses in the "general common elements," as well as their proportionate representation for voting purposes in the Association of Owners, is based on the approximate proportionate value that each of the "family units" referred to herein, bears to the value of \$595,500 which represents the total market value of all of the "family units." The value of the respective "family units," their respective interests for voting purposes, and their proportionate shares in the common profits and expenses shall be as follows:

<u>Family Unit Number</u>	<u>Market Value of Unit</u>	<u>Proportionate Shares in Common Profits and Expenses and Voting Interest</u>
A-1 - Lower	\$15,650	2.6280%
A-2 - Upper	15,950	2.6784 ✓
A-3 - Lower	15,650	2.6280
A-4 - Upper	15,950	2.6784
A-5 - Lower	15,650	2.6280
A-6 - Upper	15,950	2.6784
A-7 - Lower	15,650	2.6280
A-8 - Upper	15,950	2.6784
A-9 - Lower	15,650	2.6280
A-10 - Upper	15,950	2.6784
B-1 - Town House - Double Carport	19,250	3.2332 ✓
B-2 - Town House - Double Carport	19,250	3.2332 ✓
B-3 - Town House - Single Carport	18,950	3.1821 ✓
B-4 - Town House - Double Carport	19,250	3.2332
B-5 - Town House - Single Carport	18,950	3.1821
B-6 - Town House - Double Carport	19,250	3.2332
B-7 - Town House - Single Carport	18,950	3.1821
B-8 - Town House - Double Carport	19,250	3.2332
A-17 - Lower	15,650	2.6280
A-18 - Upper	15,950	2.6784
A-19 - Lower	15,650	2.6280
A-20 - Upper	15,950	2.6784
A-21 - Lower	15,650	2.6280
A-22 - Upper	15,950	2.6784
A-23 - Lower	15,650	2.6280
A-24 - Upper	15,950	2.6784
A-25 - Lower	15,650	2.6280
A-26 - Upper	15,950	2.6784
A-27 - Lower	15,650	2.6280
A-28 - Upper	15,950	2.6784

<u>Family Unit Number</u>	<u>Market Value of Unit</u>	<u>Proportionate Shares in Common Profits and Expenses and Voting Interest</u>
A-11 - Lower	\$15,650	2.6280%
A-12 - Upper	15,950	2.6784
A-13 - Lower	15,650	2.6280
A-14 - Upper	15,950	2.6784
A-15 - Lower	15,650	2.6280
A-16 - Upper	15,950	2.6784

G. The "limited common elements" allocated for the restricted uses of the respective "family units" are as follows and are further described, located, and shown on survey and floor plans attached hereto.

LIMITED COMMON ELEMENTS

Each family unit includes either a patio area, one or two carports, or second floor patio deck, as follows:

<u>Family Unit Number</u>			
A-1 - Lower	Patio Area No. P-1	Carport No. C-1	
A-2 - Upper	Patio Deck No. PD-3	Carport No. C-3	
A-3 - Lower	Patio Area No. P-5	Carport No. C-5	
A-4 - Upper	Patio Deck No. PD-7	Carport No. C-7	
A-5 - Lower	Patio Area No. P-9	Carport No. C-9	
A-6 - Upper	Patio Deck No. PD-11	Carport No. C-11	
A-7 - Lower	Patio Area No. P-13	Carport No. C-13	
A-8 - Upper	Patio Deck No. PD-15	Carport No. C-15	
A-9 - Lower	Patio Area No. P-17	Carport No. C-17	
A-10 - Upper	Patio Deck No. PD-19	Carport No. C-19	
B-1 - Town House - Double	Carport	Patio Area No. P-21	Carport No. C-21-A and C-21-B
B-2 - Town House - Double	Carport	Patio Area No. P-23	Carport No. C-23-A and C-23-B
B-3 - Town House - Single	Carport	Patio Area No. P-25	Carport No. C-25
B-4 - Town House - Double	Carport	Patio Area No. P-27	Carport No. C-27-A and C-27-B
B-5 - Town House - Single	Carport	Patio Area No. P-29	Carport No. C-29
B-6 - Town House - Double	Carport	Patio Area No. P-31	Carport No. C-31-A and C-31-B
B-7 - Town House - Single	Carport	Patio Area No. P-33	Carport No. C-33
B-8 - Town House - Double	Carport	Patio Area No. P-35	Carport No. C-35-A and C-35-B
A-17 - Lower	Patio Area No. P-37	Carport No. C-37	
A-18 - Upper	Patio Deck No. PD-39	Carport No. C-39	
A-19 - Lower	Patio Area No. P-41	Carport No. C-41	
A-20 - Upper	Patio Deck No. PD-43	Carport No. C-43	
A-21 - Lower	Patio Area No. P-45	Carport No. C-45	
A-22 - Upper	Patio Deck No. PD-47	Carport No. C-47	
A-23 - Lower	Patio Area No. P-49	Carport No. C-49	
A-24 - Upper	Patio Deck No. PD-51	Carport No. C-51	
A-25 - Lower	Patio Area No. P-53	Carport No. C-53	
A-26 - Upper	Patio Deck No. PD-55	Carport No. C-55	
A-27 - Lower	Patio Area No. P-57	Carport No. C-57	
A-28 - Upper	Patio Deck No. PD-59	Carport No. C-59	
A-11 - Lower	Patio Area No. P-61	Carport No. C-61	

- A-12 - Upper Patio Deck No. PD-63 Carport No. C-63
- A-13 - Lower Patio Area No. P-65 Carport No. C-65
- A-14 - Upper Patio Deck No. PD-67 Carport No. C-67
- A-15 - Lower Patio Area No. P-69 Carport No. C-69
- A-16 - Upper Patio Deck No. PD-71 Carport No. C-71

H. That the floor plans, marked Exhibit "A" and recorded and filed for record simultaneously with this declaration, are incorporated by reference herein.

I. Said Grantor, its successors and assigns, by this declaration, and all future owners of the "family units," by their acceptance of their deeds, covenant and agree as follows:

1. That the "general common elements" shall remain undivided; and no owner shall bring any action for partition, it being agreed that this restriction is necessary in order to preserve the rights of the owners with respect to the operation and management of the condominium except as provided in ORS 91.655 to ORS 91.675.

2. That the "family units" shall be occupied and used by the respective owners only as a private dwelling for the owner, his family, tenants and social guests and for no other purposes.

3. The owner of the respective "family units" shall not be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, floors and ceilings surrounding his respective "family units," nor shall said owner be deemed to own pipes, wires, conduits or other public utility lines running through said respective "family units" which are utilized for, or serve more than one "family unit," except as tenants in common with the other "family unit" owners as heretofore provided in "E". Said owner, however, shall be deemed to own the walls and partitions which are contained in said owner's respective "family unit," and also shall be deemed to own the inner decorated and/or finished surfaces of the perimeter walls, floors and ceilings.

4. The owners of the respective "family units" agree that if any portion of the "general common elements" encroaches upon the "family units," a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. In the event the multi-family structure is partially or totally destroyed, and then rebuilt, the owners of "family units" agree that minor encroachment of parts of the "general common elements" due to construction shall be permitted and that valid easement for said encroachment and the maintenance thereof shall exist.

5. That an owner of a "family unit" shall automatically, upon becoming the owner of a "family unit or units," be a member of THE CITADEL hereinafter referred to as the "Association," and shall remain a member of said Association until such time as his ownership ceases for any reason, at which time his membership in said Association shall automatically cease.

6. That the owners of "family units" covenant and agree that the administration of the condominium shall be in accordance with the provisions of this declaration, the By-Laws of the Association which are made a part hereof and attached as Exhibit "B", and the Oregon Unit Ownership Law.

7. That each owner, tenant or occupant of a "family unit" shall comply with the provisions of this declaration, the By-Laws, decisions and resolutions of the Association or its representative, as lawfully amended from time to time, and failure to comply with any such provisions, decisions, or resolutions, shall be grounds for an action or suit to recover sums due, for damages or for injunctive relief,

8. That this declaration shall not be revoked or any of the provisions herein amended unless ^{100%} of the owners and the mortgagees of all of the mortgages covering the "family units" consent in writing to such revocation or amendment by duly recorded instruments.

9. That no owner of a family unit shall exempt himself from liability for his contribution towards the common expenses of the use or enjoyment of any of the general common elements or by the abandonment of his "family unit."

10. Should the Mortgagee of a first mortgage or Beneficiary of a first trust deed, while there remains an unpaid balance on the loan secured thereby, believe that proper maintenance, repair and replacement for the common elements are not being provided for, said Mortgagee or Beneficiary, at its option, may deliver a written notice to the Board of Directors of the Association of Unit Owners, setting forth the particular defects which it believes exist in the maintenance, repair and replacement program, and if the specified defects be not corrected within ninety (90) days subsequent to the date of such notice, the Mortgagor of a first mortgage or Grantor of a first trust deed does designate the Mortgagee or Beneficiary their proxy to attend all subsequent annual or special meetings of the Unit Owners Association and to vote in behalf of the Mortgagor or Grantor upon all matters to the same extent as Mortgagor or Grantor could vote personally.

J. All sums assessed by the Association but unpaid for the share of the common expenses chargeable to any family unit shall constitute a lien on such family unit prior to all other liens except only (1) tax liens on the family unit in favor of any assessing unit and special district, and (2) all sums unpaid on the first mortgage or trust deed of record. Such lien may be foreclosed by suit by the manager or Board of Directors, acting on behalf of the owners of the family units, in accordance with ORS 91.580. In any such foreclosure the family unit owner shall be required to pay a reasonable rental for the family unit, if so provided in the By-Laws, and the plaintiff in such foreclosure suit shall be entitled to the appointment of a receiver to collect the same. The manager or Board of Directors, acting on behalf of the owners of the family units, shall have power, unless prohibited herein, to bid in the unit at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Action to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same.

K. Where the mortgagee of a first mortgage or grantee of a first trust deed of record or other purchaser of a family unit obtains title to the unit as a result of foreclosure of the first mortgage or first trust deed, such acquirer of title, his successors and assigns, shall not be liable for the share of the common expenses or assessments by the Association chargeable to such family unit which become due prior to the acquisition of title to such family unit by such acquirer. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the family units including such acquirer, his successors and assigns.

L. The respective "family units" shall not be rented by the owners thereof for transient or hotel purposes, which shall be defined as (a) rental for any period less than thirty (30) days; or (b) any rental if the occupants of the "family unit" are provided customary hotel services, such as room service for food and beverage, maid service, furnishing laundry and linen, and bellboy service. Other than the foregoing

obligations, the owners of the respective "family units" shall have the absolute right to lease same provided that said lease is made subject to the covenants and restrictions contained in this declaration and further subject to the By-Laws attached hereto.

M. In the event the property subject to this declaration is totally or substantially damaged or destroyed, the repair, reconstruction or disposition of the property shall be as provided in Section 91.660, Oregon Revised Statutes.

N. In a voluntary conveyance of a family unit the grantee of the unit shall be jointly and severally liable with the grantor for all unpaid assessments by the Association against the latter for his share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the manager or Board of Directors of the Association, as the case may be, setting forth the amount of the unpaid assessments against the grantor due the Association and such grantee shall not be liable for, nor shall the family unit conveyed be subject to a lien for, any unpaid assessments made by the Association against the grantor in excess of the amount therein set forth.

O. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in the Unit Ownership Law, Oregon Revised Statutes, this declaration or in the By-Laws, shall be deemed to be binding on all owners of family units, their successors and assigns.

P. That the Board of Directors of the Association of Owners, or the Management Agent, or Manager shall obtain and continue in effect blanket property insurance in form and amounts satisfactory to mortgagees holding first mortgages or grantees holding first trust deeds covering family units but without prejudice to the right of the owner of a family unit to obtain individual family unit insurance, in excess of the blanket coverage.

Q. That insurance premiums for any blanket insurance coverage shall be a common expense to be paid by monthly assessments levied by the Association of Owners; and that such payments shall be held in a separate escrow account of the Association of Owners and used solely for the payment of the blanket property insurance premiums as such premiums become due.

R. That so long as said grantor, its successors and assigns, owns one or more of the family units established and described herein, said grantor, its successors and assigns shall be subject to the provisions of this declaration and of Exhibits "A" and "B" attached hereto; and said grantor covenants to take no action which would adversely affect the rights of the Association with respect to assurance against latent defects in the property or other right assigned to the Association by reason in the establishment of the condominium.

S. The terms "Declaration" and "Condominium Ownership" as used herein shall mean and include the terms "Master Deed" and "Apartment Ownership" respectively.

I. The name of the person to receive service of process in cases provided in Subsection 1 of ORS 91.635 is William J. Cooley, and his place of business is 1130 S. E. 122nd Avenue, Multnomah County, Oregon.

Dated _____, 1969

THE CITADEL

Exhibit "A" - Floor Plans
Exhibit "B" - By-Laws

By _____ Partner

By _____ Partner

STATE OF OREGON)
) ss.
County of Multnomah)

On this _____ day of _____, 1969, before the undersigned, a Notary Public in and for said County and State, personally appeared the within names WILLIAM J. COOLEY and JAMES D. LYONS, partners, who are known to me to be the identical individuals described in and who executed the within instrument, and acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public for Oregon

My Commission Expires: