

01/21/85

BY-LAWS OF  
THE PAVILIONS COUNCIL OF CO-OWNERS

ARTICLE I

NAME AND LOCATION

Section 1. Name. The name of the corporation shall be THE PAVILIONS COUNCIL OF CO-OWNERS (the "Council").

Section 2. Location. The principal office of the Council shall be at 7400 East McCormick Parkway, Scottsdale, Arizona 85258. The Council may have offices at such other places as the Board of Directors of the Council (the "Board") may from time to time determine.

ARTICLE II

APPLICATION, MEMBERSHIP AND INITIAL ORGANIZATION

Section 1. Application. These By-Laws, together with the Declaration (the "Declaration") of Horizontal Property Regime for The Pavilions, (the "Condominium"), all amendments to the foregoing, all rules and regulations passed by the Council and the Arizona Horizontal Property Regime Act, as the same may be amended, renumbered or renamed from time to time (the "Act"), shall apply to, govern and control the Condominium property and all present or future owners, tenants, employees and other persons using it. The mere acquisition, rental or occupancy of a dwelling unit (a "Unit") on the property will signify the acceptance and ratification of these By-Laws by all such persons.

Section 2. Members. The Members of the Council shall consist of the Unit owners who have record title in their names, but includes those who are purchasers with possessory rights under "land contracts" or "contracts for deeds" or the like.

Section 3. Initial Organization. Notwithstanding any provision set forth in these By-Laws to the contrary, The Pavilions, an Arizona joint venture, (the "Declarant"), shall designate the initial Board, consisting of three (3) persons. Such members of the Board, or successors to any of them as designated by Declarant, need not be Unit owners and shall continue to serve as follows. Upon the passage of ninety (90) days from the conveyance by Declarant to purchasers of

1/16/91

Seventy-five Percent (75%) of all the Units which have been reserved under the Declaration in Phase One and all subsequent phases, a special meeting of the Members shall be called not later than thirty (30) days thereafter, at which time all members of the initial Board, or their successors, as designated by Declarant, shall tender their resignations, and the Members shall elect new members of the Board, in accordance with the provisions of Article V of these By-Laws.

Section 4. Master Association Rights. The Master Association (as defined in the Declaration) shall have the right, duties and obligations set forth in the Master Declaration and the Declaration, as the same may be amended from time to time.

### ARTICLE III

#### VOTING, MAJORITY OF OWNERS, QUORUM, PROXIES

Section 1. Voting. Voting shall be as set forth in the Articles of Incorporation of the Council. If a Unit is owner by more than one person, is under lease or is owned by an entity other than individuals, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by all of the record owners of the Unit or duly authorized officer of the owner and filed with the Secretary of the Council. Such certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in ownership of the Unit concerned. A certificate designating the person entitled to cast the vote of a Unit may be revoked by the owner thereof at any time.

Section 2. Quorum. Except as otherwise provided in these By-Laws, the presence in person or by proxy of Members holding thirty three and one-third (33 1/3%) or more of the votes shall constitute a quorum.\*

Section 3. Proxies. Votes may be cast in person or by proxy. Proxies must be filed with the Secretary before the appointed time of each meeting. Unless granted to a lessee or a Mortgagee, a proxy shall be effective only for one hundred eighty (180) days.

### ARTICLE IV

#### MEETINGS

Section 1. Roster of Members. The Council shall maintain a current roster of names and addresses of every

\*ARTICLE III, Section 2. Quorum., which previously read "Except as otherwise provided in these By-Laws, the presence in person or by proxy of Members holding more than Fifty Percent(50%) of the votes shall constitute a quorum.", was amended by membership vote at a Special Meeting January 16, 1991.

01/21/85

Member upon whom notice of meetings of the Council shall be served. Every Member shall furnish the Council with his or her name and current mailing address; no Member may vote at meetings of the Council until the foregoing information is furnished.

Section 2. Place of Meetings. Meetings of the Council shall be held at its principal office or such other suitable place convenient to the Members as may be designated by the Board.

Section 3. Annual Meetings. The annual meetings of the Council shall be held on the 3rd Tuesday of March of each year (the "annual meeting"). At each annual meeting the Members shall elect one or more members of the Board in accordance with Article V hereof. The Members may also transact such other business of the Council as may properly come before them.

Section 4. Special Meetings. The President shall call a special meeting of the Members when required by the Declaration or when directed by resolution of the Board or when a petition signed by Members holding one-tenth (1/10th) of the votes in the Council is presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of the holders of four-fifths (4/5) of the votes of Members present, either in person or by proxy.

Section 5. Notice of Meetings. The Secretary shall deliver or mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Member of record, at the address shown on the roster, at least ten (10) days but not more than thirty (30) days prior to such meeting, unless waivers are duly executed by all Members. The delivery or mailing of a notice in the manner provided in this Section shall be considered notice served and such notice shall be effective upon the date of delivery or mailing.

Section 6. Special Assessment Meetings. Where inconsistent herewith, the provisions of Article VI, Section 7 of the Declaration shall control procedures at special meetings concerning assessments.

Section 7. Adjourned Meetings. If any meeting of the Council cannot be organized because a quorum has not attended, the Members who are present, either in person or by proxy, may

01/21/85

adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called.

Section 8. Order of Business. The order of business at all meetings of the Unit owners shall be as follows:

- (a) Roll call.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading of minutes of preceding meeting.
- (d) Reports of officers.
- (e) Reports of committees.
- (f) Election of directors (when applicable).
- (g) Unfinished business.
- (h) New business.

Section 9. Parliamentary Procedure. Except where inconsistent with these By-Laws, meetings of the Council shall be conducted in accordance with the latest revised edition of Roberts Rules of Order.

## ARTICLE V

### BOARD OF DIRECTORS

Section 1. Number and Qualification. The affairs of the Council shall be governed by a Board of Directors composed of three (3) persons, of whom not more than one person is a non-Unit owner, subject to the provisions of Article II, Section 3 hereof.

Section 2. Election and Term of Office. Except for those appointed by the Declarant, the term of office of the Directors shall be fixed as follows:

- (i) The terms of two Directors shall expire on the date of the annual meeting next succeeding the date of their elections. Thereafter, the term of each Director elected or re-elected in succession of these Directors shall be for two (2) years each and shall expire on the date of the annual meeting which is two (2) years next succeeding the date of such election or re-election.
- (ii) The term of the third Director shall expire on the date of the annual meeting which next succeeds the annual meeting at which the

01/23/85

terms of the Directors elected under paragraph (i) hereof shall expire. Thereafter, the term of each Director elected or re-elected in succession of this Director shall be for two (2) years each and shall expire on the date of the annual meeting which is two (2) years next succeeding the date of such election or re-election.

- (iii) At the time of the initial election of the Directors, each candidate for election as Director shall declare, before the votes are cast, the length of the term as Director for which he or she is a candidate.

Each Director shall hold office until his or her successor has been elected and has attended his or her first meeting of the Board.

Section 3. Powers and Duties. The Board shall have the powers and duties necessary to administer the Condominium property and, among other duties, carry out the following:

- (1) make and enforce (including enforcement through the establishment of a system of fines or special assessments) rules and regulations and amendments thereto from time to time respecting the operation, use and occupancy of the Condominium property;

- (2) make and collect assessments from the Members in accordance with the provisions of the Declaration, and expend said assessments for insurance, taxes, utility services for and maintenance, repair and operation of the Common Elements of the Condominium or for such other purposes as shall fall within the responsibility of the Council and general powers of the Board;

- (3) execute contracts on behalf of the Council, employ necessary personnel, and carry out all functions and purposes necessary for the operation of the Condominium property, including acquiring and conveying property and suing on behalf of all Members;

- (4) satisfy all liens against the Condominium property and pay necessary expenses connected therewith;

01/23/85

(5) perform such other functions as are required by law and the Declaration.

Section 4. Fees. No fee or other compensation shall be paid to any member of the Board at any time except by specific resolution of the Council. Once fees or other compensation are so established, the amount thereof may be determined by resolution of the Board.

Section 5. Vacancies. Subject to Article II, Section 3 hereof, vacancies in the Board caused by any reason other than the removal of a Director by a vote of the members shall be filled by vote of the majority of the remaining Directors, even though they may constitute less than a quorum; and each person so elected shall be a Director until a successor is elected at the next annual meeting of the Council.

Section 6. Removal of Directors. At any regular or special meeting duly called, any one or more of the Directors elected by the Members may be removed with or without cause by Members holding more than Fifty Percent (50%) of the votes and a successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the Members shall be given an opportunity to be heard at the meeting.

Section 7. Organization Meeting. The first meeting of a Board, after one or more Directors have been newly elected, shall be held within ten (10) days of such election at such place as shall be fixed by the Directors at the meeting at which such Directors were newly elected, and no notice shall be necessary to the newly elected Directors in order legally to constitute such meeting, providing a majority of the whole Board shall be present.

Section 8. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be designated from time to time, by a majority of the Directors, but at least one such meeting shall be held during each fiscal year. Notice of regular meetings of the Board shall be given to each Director, personally or by mail, telephone or telegraph, at least three (3) days prior to the day named for such meeting.

Section 9. Special Meetings. Special meetings of the Board may be called by the President on three (3) days notice to each Director, given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) Directors.

01/21/85

Section 10. Waiver of Notice. Before or at any meeting of the Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 11. Board of Directors' Quorum. At all meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board. If at any meeting of the Board there is less than a quorum present, then the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 12. Acts of Directors Without a Meeting. Any act of the Board may be taken without a meeting provided that a consent in writing setting forth the act is signed by all the Directors. The consent shall have the same force and effect as a unanimous vote.

Section 13. Fidelity Bonds. The Board shall require that all officers and employees of the Council handling or responsible for Council funds shall furnish adequate fidelity bonds in accordance with the requirements of the Federal National Mortgage Association. The premiums on such bonds shall be paid by the Council.

## ARTICLE VI

### OFFICERS

Section 1. Designation and Election. The principal officers of the Council shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected annually by the Board. The Directors may elect an assistant treasurer, an assistant secretary or such other officers as in their judgment may be necessary.

Section 2. Removal of Officers. Upon an affirmative vote of a majority of the members of the Board, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

01/21/85

Section 3. President. The President shall be the chief executive officer of the Council. He shall preside at all meetings of the Council and of the Board. He shall have all of the general powers and duties which are usually vested in the office of president of an Council, including, but not limited to, the power to appoint committees from among the Members from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Council.

Section 4. Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint some member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board.

Section 5. Secretary. The Secretary shall keep the minutes of all meetings of the Board and of the Council and shall, immediately after all such meetings, furnish copies of the minutes to the Master Board (as defined in the Declaration). He shall have charge of such books and papers as the Board may direct and he shall, in general, perform all the duties incident to the office of Secretary. The Secretary shall count the votes cast at any annual or special meeting of the Council or the Board.

Section 6. Treasurer. The Treasurer shall have responsibility for Council funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Council. He shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Council, in such depositories as may from time to time be designated by the Board.

Section 7. Compensation. Officers may receive compensation for services rendered to the Council if the same is established by a resolution of the Board.

## ARTICLE VII

### BUDGET, ASSESSMENTS AND DEPOSITORIES

Section 1. Budget. The Board shall at least annually adopt a budget for the operation of the Council in accordance with the Declaration. The budget shall not be effective until



01/21/85

it has been submitted, reviewed and approved by the Master Board (as defined in the Declaration).

Section 2. Assessment. The estimate of the charges to be paid during each year by each Member for the share of the common expenses of the Condominium, in accordance with the provisions of the Declaration, shall be assessed against each Unit and paid at such time as provided in resolutions by the Board. The first assessment payment shall be made, on a prorated basis where proper, upon receipt by the Member of his deed to his Unit. Assessments and installments on such assessments shall be paid on or before ten (10) days after the date when such assessments and installments are due or else shall be delinquent, and the Unit owner shall be charged interest at the rate of Twelve Percent (12%) per annum on the unpaid assessment or installment of such assessment. The Board shall have the authority to increase the rate of interest provided for herein provided such increase is uniformly applied. The Board may also by resolution establish a "late charge" for payments hereunder which are not made on a timely basis provided that the late charge must be uniformly applied. The interest charged shall be calculated from the date when the assessment or installment was first due until the date it is paid. All payments upon account shall be first applied to the interest, if any, and then to the assessment payment first due. If a Member fails to pay the assessment within the time herein specified, the Board shall take such further appropriate measures as may be allowable by law, including, but not limited to, the filing of a statement of condominium lien in accordance with the Declaration, which statement shall be signed and verified by the Secretary or any other officer authorized by the Board. No Member shall be entitled to cast a vote for a Unit at any meeting of the Council if an assessment or installment remains unpaid thirty (30) days after due.

Section 3. Depositories. The funds of the Council shall be deposited in a bank or banks or other depositories designated by the Board and shall be withdrawn therefrom only upon check or order signed by the officers who shall from time to time be designated by the Board for that purpose. The Board may require that all payment of assessments imposed by the Board against Members be paid by such Members directly to a designated depository. The Board may direct that checks of less than Five Hundred Dollars (\$500.00) for payment of the obligations of the Council bear only one (1) signature of a designated officer but checks for a greater amount must bear a signature and counter-signature of designated officers.

01/23/85

ARTICLE VIII

OBLIGATIONS OF THE UNIT OWNERS

Section 1. Maintenance and Repair.

(a) Every Member must perform promptly all maintenance and repair work within his own Dwelling and within or on the Common Elements exclusively appurtenant to his Dwelling in accordance with the Declaration, shall keep the patio or deck appurtenant to his Dwelling in a clean and neat condition and is expressly responsible for the damages and liabilities that his failure to do so may cause.

(b) Each Member shall immediately reimburse the Council for any expenditures incurred in repairing or replacing any part of the Common Elements in any manner damaged by him, any member of his family, any tenant, any employee or any other user or occupant of his Dwelling.

Section 2. Use of Common Areas and Facilities. No Member shall place or cause to be placed any objects of any kind in the Common Elements, provided, however, that a Member may place objects in the Common Elements exclusively appurtenant to his Dwelling, unless such placement is otherwise prohibited.

Section 3. Right of Entry.

(a) Each Member grants a right of entry to his Dwelling to the professional property manager, management company or managing agent employed by the Board or to any other person authorized by the Board in case of any emergency, whether the Member is present at the time or not. Any damage or loss caused as a result of such entry shall be at the expense only of the Member if, in the judgment of those authorizing the entry, such entry was for emergency purposes.

(b) Each Member shall permit such professional property manager, management company or managing agent employed by the Board or any other person authorized by the Board, or their representatives, when so required, to enter his Dwelling for the purpose of performing non-emergency installations, alterations or repairs, provided that requests for entry are made in advance and that such entry is at a time convenient to the Member.

Section 4. Rules of Conduct. The Board may establish additional Rules of Conduct in accordance herewith and as set forth in the Declaration.

01/21/85

Section 5. Dispute Resolution. (a) "Dispute Resolution" refers to the process of establishing and enforcing the rights and responsibilities of the Owners and residents and the Council against any Owner or resident. An Owner or resident or the Council may use the Dispute Resolution process herein when a breach of the Rules, these By-Laws, or the Articles or the Declaration shall have occurred. The Dispute Resolution process shall not limit any other rights or remedies which any party may have, including actions for damages or injunctive relief. The Dispute Resolution Process must be used in the case of a suspension of rights as described in Article IV, Section 1(c) of the Declaration.

(b) Dispute Resolution may be initiated by the submission of a written complaint concerning a breach and, while it need not be in any particular form, must state the Rule, By-Laws, Articles or Declaration provision breached and contain a sufficiently detailed statement of the relevant facts. Such complaint shall be delivered to the President who shall immediately refer the matter to a Dispute Resolution Committee appointed by the Board.

(c) Within three (3) days of the receipt of the complaint, the chairperson of the Dispute Resolution Committee shall cause a letter to be sent by certified mail, return receipt requested, to the Owner or resident against whom the complaint was filed. The letter must state the alleged facts of the complaint and request either immediate and continued compliance or an explanation. Any such explanation must be returned in writing to the committee chairperson within three (3) days of receipt of the letter.

(d) If a satisfactory response or compliance does not follow, a second letter shall similarly be sent, as follows:

(i) Reference to the first letter and its content;

(ii) The fact that there has been no satisfactory response or compliance;

(iii) Summons to a hearing before Dispute Resolution Committee specifying the time and place thereof;

(iv) Advice of right to counsel;

(v) Notice that evidence will be received and a record made whether or not the alleged offender(s) attends;

01/21/85

(vi) Notice that if found to have been in violation, a special assessment may be imposed in an amount not more than One Hundred Fifty Dollars (\$150.00), plus costs and actual attorney's fees incurred by the Council; and

(vii) Notice that such special assessment will be a lien against the subject unit.

(e) The time and place of the hearing shall be set or reset to accommodate the schedules of the all parties but shall not be unreasonably delayed. Each party shall be entitled to one rescheduling upon request.

(f) Said meeting shall be divided into two sections: hearing and decision. The hearing section of the meeting shall be open to only the parties involved. The decision section of the meeting shall be a closed session and shall not be attended by any of the parties involved in the complaint. The decision shall be reported in writing and placed in the official records of the Council.

(g) If the person making the complaint fails to appear at the hearing called, the complaint shall be dismissed and costs incurred by the responding party assessed against the complaining party.

(h) If the person complained against fails to appear, the complaining party must still present his complaint. No presumption can be made from the non-appearance.

(i) A decision of the Dispute Resolution Committee may be appealed by any Owner or resident complained of. A complaining party dissatisfied with any particular sanction or condition established by the Committee may also appeal. Appeal is made to the Board in writing and within three (3) days of the decision.

(k) The Board shall establish its procedure to consider any appeal made as outlined above. The Board may hear evidence and reach its own findings of facts.

(l) If the appeal involves a specific assessment or charge, the Board shall have the option of adjusting the charge, although it shall not exceed doubling of the original charge.

(m) The Committee or the Board may adopt any one or more of the following remedies:

01/23/85

- (i) Informal letter of reprimand;
- (ii) Loss of voting rights for a period of thirty (30) days, if authorized by the Declaration or By-Laws;
- (iii) Special assessments per occurrence;
- (iv) Assessment of other damages, whether actual or liquidated;
- (v) Loss of right to use some or all of the Common Elements in accordance with Article IV, Section 1(c) of the Declaration; and
- (vi) Any other legal or equitable remedy available.

#### ARTICLE IX

##### AMENDMENTS

Section 1. By-Laws. These By-Laws may be amended by the Members in a duly constituted meeting for such purpose; but no amendment shall take effect unless approved by the owners of at least Sixty-seven Percent (67%) of the total Units and, if required in the Declaration, certain mortgagees. No amendment shall limit any of the rights granted to or reserved by Declarant herein. Any amendment hereto shall be approved in advance in writing by the Master Association.

#### ARTICLE X

##### MORTGAGES, STATEMENT OF UNPAID ASSESSMENTS

Section 1. Notice to Association. Any Member who permits or causes his Unit to be encumbered by a mortgage, including a deed of trust, shall notify the Secretary of each such mortgage and the name and address of each such mortgagee. Such notice may also be served by any such mortgagee. The Secretary shall maintain a record of the names and addresses of all mortgagees of which the Secretary shall have received notice.

Section 2. Notice of Unpaid Assessments. The Council shall furnish statements setting forth the amount of the then unpaid assessments pertaining to such Unit in accordance with the Declaration. If any such mortgagee, proposed mortgagee or purchaser of such Unit, in reliance upon such statement shall

01/23/85

disburse mortgage loan proceeds or shall expend the purchase price, such mortgagee, proposed mortgagee or purchaser shall not be liable for, nor shall such Unit be subject to a lien which is not properly filed in accordance with the Declaration prior to the date of the statement, for any unpaid assessments in excess of the amount set forth in such statement. If the Council does not provide such a statement within ten (10) business days after such request, then the Council is barred from claiming against any such mortgagee, proposed mortgagee or purchaser under any lien which is not properly filed in accordance with the Declaration prior to the request for the statement.

ARTICLE XI

CONFLICTS

These By-Laws are set forth to comply with the requirements of the Act. If these By-Laws conflict with the provisions of the Act, or the Declaration, the provisions of the Act or of the Declaration will control.

ARTICLE XII


FISCAL YEAR

The fiscal year of the corporation shall begin on the first day of January and end on the 31st day of December of each year.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 1985.

The undersigned, being duly authorized by the Board of Directors of The Gainey Ranch Community Association to act on behalf of said Board, hereby approves the preceding By-Laws of the The Pavilions Council of Co-Owners.

February 28 1985  
Date \_\_\_\_\_

  
\_\_\_\_\_  
STEPHEN J. BROWN, Its SECRETARY