CONDOMINIUM DECLARATION

FOR

978155

BAYOU SHADOWS TOWNHOMES
BEAUMONT, TEXAS

THE STATE OF TEXAS §
KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF JEFFERSON §

THAT WHEREAS, JAMES P. RITTER, of Jefferson County, Texas, hereinafter called "Declarant", is the owner of real property situated in the City of Beaumont, County of Jefferson, State of Texas, being described as follows, to-wit:

BEING a 2.83 acre tract of land out of and part of the C. Williams League, in Jefferson County, Texas; and being a 1.47 acre tract out of that certain 1.65 acres out of the L. W. McAdams Homestead Tract conveyed by Margaret W. Herrin to Jake J. Daleo by deed recorded in Vol. 854, Pg. 452, Deed Records of Jefferson County, Texas, and a 1.36 acre tract out of and part of Lot Eight (8) of a partition of 17.2 acres of land by the heirs of Ellen R. Collier, deceased, as recorded in Vol. 60, Page 165 of the Deed Records of Jefferson County, Texas; said 2.83 acre tract (comprised of said 1.47 acre tract and said 1.36 acre tract) being more fully and particularly described as follows:

BEGINNING at an iron pipe in the South Right of Way line of Calder Avenue at the West line of the Amelia Cut-Off Drainage Right of Way;

THENCE South 0 degrees 38 Min. 41 Sec. West with said West line of the Amelia Cutoff a distance of 202.65 feet to a 1½ inch pipe for corner;

THENCE Southerly along the West line of said Amelia Cutoff with a curve to the right whose central angle is 37 deg. 39 min. 30 sec., has a radius of 417.19 feet; a distance of 274.20 feet to a steel rod for corner;

THENCE South 38 deg. 18 min. 11 sec. West 33.48 feet to a steel rod located in the North ROW line of the Missouri Pacific Railroad for corner;

THENCE North 51 deg. 20 min. 30 sec. West along said North Right of Way line 236.99 feet to a steel rod for corner;

THENCE North 0 deg. 38 min. 49 sec. East a distance of 369.19 feet to an old axle in the South line of Calder Ave. for corner;

THENCE South 83 deg, 19 min. 19 sec. East along said South line of Calder Ave. a distance of 295.65 feet to the PLACE OF BEGINNING;

which property is described and depicted on the Map or Plat thereof marked Exhibit "A", which by this reference is made a part hereof; and

WHEREAS, Declarant, as Developer, desires to establish a condominium regime under the Condominium Act of the State of Texas; known and to be known as "BAYOU SHADOWS TOWNHOMES, Beaumont, Texas; and

WHEREAS, Declarant has executed plans for the construction of eight (8) two-story buildings and other improvements appurtenant thereto on the property described in said Exhibit "A", which, when completed, shall consist of twenty-six (26) separately designated condominium units; and

WHEREAS, Declarant does hereby establish a plan for the individual ownership in fee simple of estates consisting of the area or space contained in each of the apartment units in the eight (8) building improvements and the ownership by the individual and separate owners thereof, as tenants in common, of all of the remaining property, which is hereinafter defined and referred to as the general common elements;

NOW, THEREFORE, Declarant does hereby publish and declare that the following terms, covenants, conditions, easements, restrictions, uses, limitations and obligations shall be deemed to run with the land, shall be a burden and benefit to Declarant, his heirs and assigns, and any person acquiring or owning an interest in the real property and improvements, their grantees, successors, heirs, executors, administrators, devisees, and assigns.

1. DEFINITIONS, unless the context shall expressly provide otherwise:

(a) "Apartment" or "Apartment Unit" means an individual air space unit which is contained within the interior surfaces of the perimeter walls, floors and ceilings of a building as shown on the Map marked Exhibit "A". Apartments are numbered numerically, commencing with the number one (1) and continuing with successive Arabic numbers through and including twenty-six (26).

(b) "Condominium Unit" means one individual air space unit, together with the interest in the general common elements appurtenant to such unit.

(c) "Owner" means a person, firm, corporation, partnership, association or other legal entity, or any combination thereof, who owns one or more condominium units.

(d) "Majority of Unit Owners" means the apartment owners with fifty-one percent (51%) or more of the votes weighted so as to coincide with percentages of ownership assigned in this Declaration to the respective units.

(e) "General Common Elements: means and includes:

(1) The land on which the buildings are located;

(2) The foundations, columns, girders, beams, supports, exterior walls (not including the inner surfaces thereof), walls separating units (not including the inner surfaces thereof), and all roofs;

(3) The yards, gardens, garages, parking areas, fences, storage spaces, streets, service drives, driveways, walks and service easements;

(4) The swimming pool, pool terrace and mail kiosk or shelter;

(5) The installations consisting of the equipment and materials making up central services such as power, light, gas and the like;

(6) All other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

(f) "Limited Common Elements" means a part of the general common elements reserved for the exclusive use of the owner of a condominium unit; the heating and air conditioning systems serving one (1) condominium unit only and the garage and patio area indicated on the attached Map as appurtenant limited elements to a specific unit only shall be deemed "limited common elements".

(g) "Entire premises" or "property" means and includes the land, the buildings, all improvements and structures thereon, and all rights, easements and appurtenances belonging thereto.

(h) "Common expenses" means and includes:

(1) All sums lawfully assessed against the general common elements by the Board of Managers;

(2) Expenses of administration and management, maintenance, repair or replacement of the general common elements;

(3) Expenses agreed upon as common expenses by the owners; and

(4) Expenses declared common expenses by provisions of this Declaration and by the By-Laws.

(i) "Association of Unit Owners" or "Association" means a Texas non-profit association, the By-Laws of which shall govern the administration of this condominium property, the members of which shall be all of the owners of the condominium units.

(j) "Map", "Survey Map" or "Plans" means and includes the engineering survey of the land locating thereon all of the improvements, the floor plans and any other drawings or diagrammatic plan, same being herewith filed, labeled as Exhibit "A",

2. The Map shall be filed for record simultaneously with the recording of this Declaration as a part hereof, and prior to the first conveyance of any condominium unit. Such Map shall consist of and set forth (i) the legal description of the surface of the land; (ii) the linear measurements and locations, with reference to the exterior boundaries of the land, of the buildings and all other improvements built or to be built on said land by Declarant; (iii) floor plans of the buildings built or to be built thereon showing the location, the building designations, the apartment designation and the square footage of each apartment unit, and the limited common elements.

3. The real property is hereby divided in the following separate fee simple estates:

(a) Twenty-six (26) fee simple estates consisting of twenty-six (26) separately designated apartment units, each such unit identified by number and by building symbol or designation on the Map, the apartments in each said building being described as follows:

BUILDING "A" - Containing four (4) apartments, numbered Units 1, 2, 3 and 4, the square footage, dimensions, location and boundaries of each being detailed on the Map hereto attached and marked Exhibit "A".

BUILDING "B" - Containing two (2) apartments, numbered Units 5 and 6, the square footage, dimensions, location and boundaries of each being detailed on the Map hereto attached and marked Exhibit "A".

BUILDING "C" - Containing four (4) apartments, numbered Units 7, 8, 9 and 10, the square footage, dimensions, location and boundaries of each being detailed on the Map hereto attached and marked Exhibit "A".

BUILDING "D" - Containing four (4) apartments, numbered Units 11, 12, 13 and 14, the square footage, dimensions, location and boundaries of each being detailed on the Map attached and marked Exhibit "A".

BUILDING "E" - Containing two (2) apartments, numbered Units 15 and 16, the square footage, dimensions, location and boundaries of each being detailed on the Map hereto attached and marked Exhibit "A".

BUILDING "F" - Containing two (2) apartments, numbered Units 17 and 18, the square footage, dimension, location and boundaries of each being detailed on the Map hereto attached and marked Exhibit "A".

BUILDING "G" - Containing four (4) apartments, numbered Units 19, 20, 21 and 22, the square footage, dimensions, location and boundaries of each being detailed on the Map hereto attached and marked Exhibit "A".

BUILDING "H" - Containing four (4) apartments, numbered Units 23, 24, 25 and 26, the square footage, dimensions, location and boundaries of each being detailed on the Map hereto attached and marked Exhibit "A".

(c) The percentage of ownership in the common elements allocated to each apartment is as follows:

| Unit Number | Percentage of Ownership |
|---|---|
| Building "A", Unit 1 | 3.850 % |
| Building "A", Unit 2 | 3.846 % |
| Building "A", Unit 3 | 3.846 % |
| Building "A", Unit 4 | 3.846 % |
| Building "B", Unit 5 | 3.846 % |
| Building "B", Unit 6 | 3.846 % |
| Building "C", Unit 7 | 3.846 % |
| Building "C", Unit 8 | 3.846 % |
| Building "C", Unit 9 | 3.846 % |
| Building "C", Unit 10 | 3.846 % |
| Building "D", Unit 11 | 3.846 % |
| Building "D", Unit 12 | 3.846 % |
| Building "D", Unit 13 | 3.846 % |
| Building "D", Unit 14 | 3.846 % |
| Building "E", Unit 15 | 3.846 % |
| Building "E", Unit 16 | 3.846 % |
| Building "F", Unit 17 | 3.846 % |
| Building "F", Unit 18 | 3.846 % |
| Building "G", Unit 19 | 3.846 % |
| Building "G", Unit 20 | 3.846 % |
| Building "G", Unit 21 | 3.846 % |
| Building "G", Unit 22 | 3.846 % |
| Building "H", Unit 23 | 3.846 % |
| Building "H", Unit 24 | 3.846 % |
| Building "H", Unit 25 | 3.846 % |
| Building "H", Unit 26 | 3.846 % |

4. A portion of the general common elements is set aside and reserved for the exclusive use of individual owners, such areas being the "limited common elements". The limited common elements

reserved for the exclusive use of the individual owners are the garage and patio spaces, which are shown on the Map. Such spaces are allocated and assigned by the Declarant to the respective condominium units as indicated on said Exhibit "A", the patio assigned to each apartment unit being designated by the apartment number preceded by the prefix "P", and in like manner the garage assigned to each apartment unit being designated by the apartment unit number preceded by the prefix "G". In like manner, heating and air conditioning systems serving only one (1) condominium unit shall be limited common elements. Such limited common elements shall be used in connection with the particular apartment unit, to the exclusion of the use thereof by the other owners except by invitation.

5. Each apartment and its undivided interest in and to the general common elements appurtenant thereto shall be inseparable and may be conveyed, leased or encumbered only as a condominium unit.

6. Every deed, lease, mortgage, trust deed or other instrument may legally describe a condominium unit by its identifying apartment number and building symbol or designation as shown on the Map, followed by the words "BAYOU SHADOWS TOWNHOMES, Beaumont, Texas", and by reference to the recorded Declaration, By-Laws and Map. Every such description shall be deemed good and sufficient for all purposes to convey, transfer, encumber or otherwise affect the general common elements.

7. Declarant shall give written notice to the assessor-collector of the respective taxing jurisdictions of the creation of condominium ownership of this property, as is provided by law, so that each apartment unit and its percentage of undivided interest in the general common elements shall be deemed a separate parcel and subject to separate assessment and taxation.

8. A condominium unit may be held and owned by more than one (1) person as joint tenants, or as tenants in common, or in any real property tenancy relationship recognized under the laws of the State of Texas.

9. The common elements, both general and limited, shall be owned in common by all of the owners of the apartment units and shall remain undivided, and no owner shall bring any action for partition or division of the general common elements. Nothing herein contained shall preclude a waiver or termination of the condominium regime upon the authorization of all the owners of the apartment units and all secured creditors in whose behalf encumbrances are recorded against units in the condominium project, or as otherwise provided in Article 30 hereof. Also, nothing contained herein shall be construed as a limitation of the right of partition of a condominium unit between the owners thereof, but such partition shall not affect any other condominium unit.

10. Each owner shall be entitled to exclusive ownership and possession of his apartment. Each owner may use the general common elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other owners, subject to such rules and regulations as may be adopted by the Board of Managers of the Association from time to time.

11. Each apartment shall be occupied and used by the owner only as and for a single family residential dwelling for the owner, his family, his social guests or his tenants.

12. If any protion of the general common elements encroaches upon an apartment 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 an adjoining apartment unit or units encroaches upon any portion of the general common elements, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. For title or other purposes, such encroachment(s) and easement(s) shall not be considered or determined to be encumbrances either on the general common elements or the apartment units.

13. Subsequent to the completion of the improvements described on the Map, no labor performed or materials furnished and incorporated in an apartment unit with the consent or at the request of the owner thereof, or his agent or his contractor, or subcontractor, shall be the basis for filing of a lien against the general common elements owned by such other owners. Each owner shall indemnify and hold harmless each of the other owners from and against all liability arising from the claim of any lien against the apartment unit of any other owner, or against the general common elements, for construction performed or for labor, materials, services or other products incorporated in the owner's apartment unit at such owner's request.

14. The administration of this condominium property shall be governed by By-Laws of the non-profit association, hereinafter named and hereinafter referred to as the "Association". A copy of such "By-Laws" is hereto attached and is the last Exhibit hereof and is incorporated herein by reference; and same shall be deemed adopted by Declarant as sole owner of the property herein described, and all owners shall be bound thereby. Declarant may, at its election, cause to be formed a Texas non-profit corporation bearing said name, in which event such non-profit corporation shall be composed of owners of condominium units as herein set out, and such non-profit corporation shall thereafter act and do things to be done by "Association" and the said non-profit corporation, if formed, shall be bound by, adopt and observe as its By-Laws the said By-Laws hereto attached. "Association" as here used shall refer to the member owners as a group, both before and after incorporation. An owner of a condominium unit, upon becoming an owner, shall be a member of the Association and shall remain a member for the period of his ownership. The affairs of the Association shall be governed by a Board of Managers, as provided in said By-Laws. If incorporated, the affairs of the Association shall be governed by a Board of Directors; and the term "Board of Managers" shall, after incorporation, be deemed to mean and refer to the Board of Directors of such non-profit corporation. The initial Board of Managers shall be appointed by Declarant, and such appointees shall serve for the term specified in said By-Laws.

15. The owners shall have the irrevocable right, to be exercised by the Board of Managers of the Association, to have access to each apartment unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the general common elements therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the general or limited common elements or to another apartment unit or units.

16. An owner shall maintain and keep in repair the interior of his own apartment, including the fixtures therein. An owner shall also maintain all electric lines, wires, conduits or systems and the heating and air conditioning system servicing his apartment unit, whether within or without same. An owner shall also maintain all the plumbing serving his apartment unit; but maintenance of sewer lines serving more than one (1) apartment unit and running from the end of an apartment unit's single sewer line to the point where such sewer line becomes the property of the City of Beaumont shall be a "common expense".

17. An owner shall do no act nor any work that will impair the structural soundness or integrity of the building or impair any easement or hereditament. No owner shall in any way alter, modify, add to or otherwise perform any work whatsoever upon any of the common elements, save with written consent of the Board of Managers first obtained.

18. An owner shall not be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, ground floor and roof surrounding his apartment unit, nor shall such owner be deemed to own the utilities running through his apartment unit, except as a tenant in common. An owner, however, shall be deemed to own and shall maintain the inner decorated and/or finished surfaces of the perimeter and interior walls, floors, ceilings, doors, windows and such other elements consisting of paint, wall paper, floor covering, carpeting and other such finishing materials.

19. Each owner shall comply strictly with the provisions of this Declaration, the By-Laws 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, maintainable by the Board of Managers on behalf of the owners or, in a proper case, by an aggrieved owner.

20. This Declaration may be amended by (a) written agreement of all owners of apartment units in the condominium project, or (b) by the affirmative vote of those unit owners entitled to exercise eighty percent (80%) or more of the total voting power of the condominium regime, cast in person or by proxy at a meeting of the unit owners duly held in accordance with the By-Laws of the Association; provided, however, that in either event such amendment must be approved in writing by all mortgagees holding recorded first mortgages upon the units of the condominium project before same shall be effective.

21. The assessments made shall be based upon the cash requirements deemed to be such aggregate sum as the Board of Managers of the Association shall from time to time determine is to be paid by all of the owners, including Declarant, to provide for the payment of all estimated expenses growing out of or connected with the maintenance and the operation of the general common elements, which sum may include, among other things, cost of management, taxes, assessments, insurance contracts purchased pursuant hereto insuring the buildings and owners thereof and their mortgagees against such risks as may be insured against under the terms hereof, landscaping and care of grounds and other general common elements, repairs, renovations, garbage collections, wages, common utility and sewer charges, supplies, legal and accounting fees, managing fees, expenses and

liabilities incurred by the Board of Managers under or by reason of this Declaration, the payment of any deficit remaining from a previous period, the creation of a reasonable contingency or other reserve or surplus funds as well as other costs and expenses relating to the general common elements. The omission or failure of the Board to fix the assessment for any month shall not be deemed a waiver, modification or a release of the owners from the obligation to pay.

The Board of Managers shall obtain and maintain at all times fire insurance with extended coverage and with vandalism and malicious mischief endorsements attached, casualty and public liability insurance, and such other insurance as may be required by a majority of unit owners and in such amounts as may be required by such majority of unit owners, issued by reasponsible insurance companies authorized to do business in the State of Texas. The insurance shall be carried in blanket policy form naming the Board of Managers, as Trustee for the apartment owners, or naming the Association, as insured or insureds, which policy or policies shall identify the interest of each condominium unit owner and which shall provide for a standard, non-contributory mortgagee clause in favor of each first mortgagee. It shall also provide that it cannot be cancelled by either the insured or the insurance company until after ten (10) days' prior written notice to each first mortgagee. Said Board of Managers shall, upon request of any first mortgagee, furnish a certified copy of such blanket policy and the separate certificate identifying the interest of the mortgagor. All policies of insurance shall provide that the insurance thereunder shall be invalidated or suspended only in respect to the interest of any particular owner guilty of a breach of warranty, act, omission, negligence or non-compliance of any provision of such policy, including payment of the insurance premium applicable to that owner's interest, or who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy, but the insurance under such policy, as to the interests of all other insured owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect. Determination of maximum replacement value of all condominium units and other improvements shall be made annually by the Board of Managers (with or without appraisals).

Unit owners shall not be prohibited from carrying other insurance for their own benefit at their own expense, provided that such policies contain waivers of subrogation and further provide that the liability of the carriers issuing insurance procured by the Board of Managers shall not be affected or diminished by reason of any unit owner's insurance.

22. All owners shall be obligated to pay the estimated assessments imposed by the Board of Managers of the Association to meet the common expenses. Except for insurance premiums, the assessments shall be made basically prorata according to each owner's percentage interest in and to the general common elements, but not necessarily in such exact proportion if the Board of Managers deem such improper or unfair. Assessments for insurance premiums shall be based upon the proportion of the total premium(s) that the insurance

carried on a condominium unit bears to the total coverage. Assessments for the estimated common expenses, including insurance, shall be due monthly in advance on or before the fifth (5th) day of each month. Failure to pay by the fifteenth (15th) day of each month shall require the imposition and assessment of a late charge of $5.00. The Board of Managers shall prepare and deliver, or mail, regularly at least annually to each owner an itemized statement showing the various estimated or actual expenses for which the assessments are made. A first mortgagee of any unit, at its request to the Association or Board of Managers thereof, shall be entitled to written notice from the Association of any default in the performance of its mortgagor's obligations hereunder or under the By-Laws which is not cured within sixty (60) days.

Declarant shall not be liable for assessments prior to the sale or lease of all units.

Contribution for monthly assessments shall be prorated if the ownership of a condominium unit commences on a day other than on the first day of the month.

23. No owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the general or common elements, or by abandonment of his apartment.

24. All sums assessed but unpaid for the share of common expenses chargeable to any condominium unit, including interest thereon at ten percent (10%) per annum, shall constitute a lien on such unit superior (prior) to all other liens and encumbrances, except only for:

(a) Tax and Special assessment liens in favor of any assessing unit; and

(b) All sums unpaid on a first mortgage or first deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrances, and including additional advances made thereon prior to the arising of such a lien.

To evidence such lien the Board of Managers may, but shall not be required to, prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the owner of the condominium unit and a description of the condominium unit. Such a notice shall be signed by one of the Board of Managers and may be recorded in the office of the County Clerk of Jefferson County, Texas. Such lien for the common expenses shall attach from the date of the failure of payment of the assessment.

Such lien may be enforced by 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 of claim thereof. In any such foreclosure, the owner shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien and all reasonable attorney's fees. The owner shall also be required to pay to the Association a reasonable rental for the condominium unit during the

period of foreclosure, and the Association shall be entitled to a receiver to collect the same. The Association shall have the power to bid on the condominium unit at foreclosure sale and to acquire and hold, lease, mortgage and convey same.

The amount of the common expenses assessed against each condominium unit shall also be a debt of the owner thereof at the time the assessment is made. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing same.

Any encumbrancer holding a lien on a condominium unit may pay any unpaid common expense payable with respect to such unit, and upon such payment such encumbrancer shall have a lien on such unit for the amounts paid of the same rank as the lien of his encumbrance.

25. Upon the written request of any owner or any encumbrancer or prospective encumbrancer of a condominium unit, the Association by its Board of Managers, shall issue a written statement setting forth the unpaid common expenses, if any, with respect to the subject unit, the amount of the current monthly assessment and the date that such assessment becomes due, credit for advanced payments or for prepaid items, including but not limited to insurance premiums, which shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. Unless such request for a statement of indebtedness shall be complied with within ten (10) days, all unpaid common expenses which become due prior to the date of making of such request shall be subordinate to the lien of the person requesting such statement.

The grantee of a unit shall be jointly and severally liable with the Grantor for all unpaid assessments against the latter for his proportionate 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; provided, however, that upon written request, any such prospective Grantee shall be entitled to a statement from the Board of Managers setting forth the amount of the unpaid assessments, if any, with respect to the subject unit, the amount of the current monthly assessment and the date that the assessment becomes due, credit for advanced payments or for prepaid items, including but not limited to insurance premiums, which shall be conclusive upon the Association. Unless such request for a statement of indebtedness shall be complied with within ten (10) days of such request, then such Grantee shall not be liable for, nor shall the unit conveyed be subject to a lien for, any unpaid assessments against the subject unit.

Upon the sale or conveyance of an apartment, all assessments against a co-owner for his prorata share in the expenses as herein described and levied shall first be paid out of the sales price or by the purchaser, in preference over any other assessments or charges of whatever nature except the following:

(a) Assessments, liens and charges in favor of the State and any political subdivision thereof for taxes past due and unpaid on the apartment; and

(b) Amounts due under first mortgage instruments duly recorded.

26. Any owner shall have the right from time to time to mortgage or encumber his interest by deed of trust, mortgage or other security instrument. A first mortgage shall be one which has first and paramount priority under applicable law. The owner of a condominium unit may create a second mortgage on the following conditions: (1) That any such second mortgage shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, lien for common expenses, and other payments created by this Declaration and by the By-Laws; (2) That the mortgagee under any second mortgage shall release, for the purpose of restoration of any improvements upon the mortgaged premises, all of his right, title and interest in and to the proceeds under all insurance policies upon said premises, which insurance policies were effected and placed upon the mortgaged premises by the Association. Such release shall be furnished forthwith by a second mortgagee upon written request to the Association.

27. In the event any owner of a condominium unit shall wish to sell the same, and shall have received a bona fide offer therefor from a prospective purchaser, the remaining owners shall be given written notice thereof, together with an executed copy of such offer and the terms thereof. Such notice and copy shall be given to the Board of Managers for all of the owners. The Board of Managers, or its designee, shall have the right to purchase the subject unit upon the same terms and conditions as set forth in the offer therefor, provided written notice of such election to purchase is given to the selling owner, and a matching down payment or deposit is provided to the selling owner during the ten (10) day period immediately following the delivery of the notice of a bona fide offer and copy thereof to the Board of Managers. The right of first refusal shall be exercised by the Board of Managers only with the prior approval of a majority of unit owners.

The right of first refusal may be waived or released by the Board of Managers, either from time to time as the occasion arises or on a continuing basis (subject to right of recission of the continuing waiver or release by the Board of Managers), upon the prior approval of a majority of unit owners.

If the Board of Managers shall not exercise its right of first refusal within the time permitted or shall have waived or released its right as to a particular offering, the unit owner shall thereafter be free to sell his unit to the person(s) identified in the bona fide offer submitted with the notice to the Board of Managers in strict accord with the terms and price contained in said bona fide offer.

Acquisition of condominium units by the Board of Managers, or its designee, may be financed from acquisition reserves (if any), working capital, and common charges in the hands of the Board of Managers; provided that funds held for maintenance, operation or repairs and reserves for replacements shall not be used to acquire units. The Board of Managers is also authorized to borrow money to finance the acquisition of such units; provided, however, that no lien or encumbrance on any property, other than the unit to be acquired, may be given or permitted to secure such financing.

In no case shall the right of first refusal reserved herein affect the right of an owner to subject his interest in the project parcel to a trust deed, mortgage, or other security instrument.

The failure of or refusal by the Board of Managers to exercise the right to so purchase shall not constitute or be deemed to be a waiver of such right to purchase when an owner receives any subsequent bona fide offer from a prospective purchaser.

The right of first refusal, as provided in this Article 27, shall not apply or extend to any sale made by Declarant at any time hereafter, whether same is a first sale or a resale of a condominium unit. Additionally, the right of first refusal, as herein provided, shall not apply or extend to any first sale by any unit owner who shall have acquired his unit directly from Declarant on Declarant's first sale of such condominium unit.

Declarant shall have the right to use any apartment unit as a sales office or display or model unit and to display advertising signs at the premises at any time hereafter until all units have been sold by Declarant.

The right of first refusal, as provided herein, shall extend and run from the date of execution of this Declaration for the period of the lives of the now living descendants of JAMES P. RITTER, whichever of said descendants shall live the longest, plus twenty-one (21) years.

Except as is otherwise provided in Article 28, and except upon a transfer of title to a Public Trustee, or to a first mortgagee, each Grantor of a condominium unit, upon transferring or conveying his interest, shall incorporate in such instrument of conveyance an agreement that the Grantee carry out the provisions of the "right of first refusal" as provided in this paragraph, which may be by reference generally to this Declaration.

28. In the event of any default on the part of any owner under any first mortgage which entitled the holder thereof to foreclose same, any sale under such foreclosure, including delivery of a deed to the first mortgagee in lieu of such foreclosure, shall be made free and clear of the provisions of Article 27, but the purchaser (or grantee under such deed in lieu of foreclosure) of such condominium unit shall be thereupon and thereafter subject to the provisions of this Declaration and By-Laws. If the purchaser following such foreclosure sale (or grantee under deed given in lieu of such foreclosure) shall be the then holder of the first mortgage, or its nominee, the said holder or nominee may thereafter sell and convey the condominium unit free and clear of the provisions of Article 27, but its grantee shall thereupon and thereafter be subject to all of the provisions thereof.

The transfer of a deceased joint tenant's interest to the surviving joint tenant or the transfer of a deceased's interest to a devisee by will or his heirs at law under intestacy laws shall not be subject to the provisions of Article 27, but the surviving joint tenant, devisee or heir (as the case may be) shall be thereafter bound by the provisions of Article 27 with respect to any subsequent sale of such unit.

If an owner of a condominium unit can establish to the satisfaction of the Board of Managers that a proposed transfer is not a sale, then such transfer shall not be subject to the provisions of Article 27.

29. Upon written request of any prospective transferor, purchaser, or an existing or prospective mortgagee of any condominium unit, the Board of Managers of the Association shall forthwith, or where time is specified, at the end of the time, issue a written and acknowledged certificate in recordable form, evidencing that:

(a) With respect to a proposed sale under Article 27, that proper notice was given by the selling owner and that the Board of Managers did not elect to exercise its option to purchase;

(b) With respect to a deed to a first mortgagee or its nominee in lieu of foreclosure, and a deed from such first mortgagee or its nominee, pursuant to Article 28, that the deeds were in fact given in lieu of foreclosure and were not subject to the provisions of Article 27;

(c) With respect to any contemplated transfer which is not in fact a sale, that the transfer is not or will not be subject to the provisions of Article 27;

Such certificate shall be conclusive evidence of the facts contained therein.

30. This Declaration hereby makes mandatory the irrevocable appointment of an attorney-in-fact to deal with the property upon its destruction or obsolescence.

Title to any condominium unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed from the Declarant or from any owner shall constitute appointment of the attorney-in-fact herein provided. All of the owners irrevocably constitute and appoint the Association their true and lawful attorney in their name, place and stead, for the purpose of dealing with the property upon its destruction or obsolescence as is hereafter provided. As attorney-in-fact, the Association, by its President and Secretary, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or any other instrument with respect to the interest of a condominium unit owner which are necessary and appropriate to exercise the powers herein granted. Repair and reconstruction of the improvement(s) as used in the succeeding subparagraphs means restoring the improvement(s) to substantially the same conditions in which same existed prior to the damage, with each unit and the general and limited common elements having the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be made available to the Association for the purpose of repair, restoration or replacements, unless the owners and all first mortgagees agree not to rebuild in accordance with the provisions set forth hereinafter.

(a) In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvement(s) shall be applied by the Association, as attorney-in-fact, to such reconstruction, and the improvement(s) shall be promptly repaired and reconstructed, except as hereinafter provided in subparagraph (c).

(b) If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is not more than two-thirds (2/3rds) of all of the general common elements, not including land (as determined by the Association Board of Managers), such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, using the proceeds of insurance and the proceeds of an assessment to be made against all of the owners and their condominium units. Such deficiency assessment shall be a common expense made pro rata according to each owner's percentage interest in and to the general common elements and shall be due and payable within thirty (30) days after written notice thereof. The Association shall have the authority to cause the repair or restoration of the improvements using all of the insurance proceeds for such prupose notwithstanding the failure of an owner to pay the assessment. The assessment provided for herein shall be a debt of each owner and a lien on his condominium unit and may be enforced and collected as is provided in Article 24. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the condominium unit of any owner refusing or failing to pay such deficiency assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the condominium unit of the delinquent owner shall be sold by the Association. The proceeds derived from the sale of such condominium unit shall be used and disbursed by the Association, as attorney-in-fact, in the following order:

(1) For payment of the balance of the lien of any first mortgage.

(2) For payment of taxes and special assessment liens in favor of any assessing entity;

(3) For payment of unpaid common expenses, including the assessment for reconstruction as above provided;

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

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

(c) If more than two-thirds (2/3rds) of all of the general common elements, not including land (as determined by the Association Board of Managers), are destroyed or damaged, and if the owners of all said condominium units do not voluntarily, within one hundred twenty (120) days thereafter, make provision for reconstruction, which plan must have the unanimous approval or consent of every owner and every first mortgagee, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's President and Secretary, the entire remaining premises shall be sold by the Association, as attorney-in-fact for all of the owners, free and clear of the provisions contained in this Declaration, the Map and the By-Laws. The insurance settlement proceeds shall be collected by the Association, and such proceeds shall be divided by the Association according to each unit owner's interest (as such interests appear on the policy or policies) and such divided proceeds shall be paid into as many separate accounts as there are units covered by this declaration, each such account representing one of the condominium units. Each such account shall be in the name of the Association, and shall be further identified by the number of the apartment unit and the name of the owner. From each separate account, the Association, as attorney-in-fact shall use and disburse the total amount (of each) of such accounts, without contribution from any account to another, toward the full payment of the lien of any first mortgage against the condominium unit represented by such separate account. There shall be added to each such account, the apportioned amount of the proceeds derived from the sale of the entire property. Such apportionment shall be based upon each condominium unit owner's percentage interest in the general common elements. The total funds of each account shall be used and disbursed, without contribution from one account to another, by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in sub-paragraph (b) (1) through (5) of this Article.

If, however, more than two-thirds (2/3rds) of all of the general common elements, not including land (as determined by the Association Board of Managers), are destroyed or damaged, and if, within one hundred twenty (120) days thereafter, the owners of all condominium units adopt a plan for reconstruction, which plan has the unanimous approval of all owners and all first mortgagees, then all of the owners shall be bound by the terms and other provisions of such plan. Any assessment made in connection with such plan shall be a common expense and made pro rata according to each owner's percentage interest in the general common elements and shall be due and payable as provided by the terms of such plan but not sooner than thirty days (30) after written notice thereof.

The Association shall have the authority to cause the repair or restoration of the improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an owner to pay the assessment.

The assessment provided for herein shall be a debt of each owner and a lien on his condominium unit and may be enforced and collected as is provided in Article 24.

In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the condominium unit of any owner refusing or failing to pay such assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the condominium unit of the delinquent owner shall be sold by the Association. The proceeds derived from sale of such condominium unit shall be used and disbursed by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in sub-paragraph (b) (1) through (5) of this Article.

(d) The owners representing an aggregate ownership interest of three-fourths (3/4ths) of the condominium units covered by this declaration, or more, may agree that the general common elements of the property are obsolete and that the same should be renewed or reconstructed. In such instance, then the expense thereof shall be payable by all of the owners as common expenses; provided, however, that any owner not agreeing to such renewal or reconstruction may give written notice to the Association that such unit shall be purchased by the Association for the fair market value thereof. If such owner and the Association can agree on the fair market value thereof, then such sale shall be consummated within thirty days (30) thereafter. If the parties are unable to agree, the date when either party notifies the other that he or it is unable to agree with the other shall be the "commencing date" from which all periods of time mentioned herein shall be measured. Within ten days (10) following the commencement date, each party shall nominate in writing (and give notice of such nomination to the other party), one (1) appraiser, who shall be a member of the Beaumont Board of Realtors. If either party fails to make such a nomination, the appraiser nominated shall within five days (5) after default by the other party appoint and associate with him another appraiser (to be selected from the Beaumont Board of Realtors). If the two appraisers designated by the parties, or selected pursuant hereto in the event of the default of one (1) party, are unable to agree, they shall appoint another appraiser (to be selected from the Beaumont Board of Realtors) to be umpire between them, if they can agree on such person. If they are unable to agree upon such umpire, then each appraiser previously appointed shall nominate two (2) persons (each of whom shall be a member of the Beaumont Board of Realtors) and, from the names of the four (4) persons so nominated one (1) name shall be drawn by lot by any judge of any court of record in Texas, and nominations from whom the umpire is to be drawn by lot shall be submitted within ten days (10) of the failure of the two (2) appraisers to agree, which in any event shall not be later than twenty days (20) following the appointment of second appraiser. The decision of the appraisers as to the fair market value or in the case of their disagreement, the decision of the umpire, shall be final and binding. The expenses and fees of such appraisers shall be borne equally by the Association and the owner. The sale shall be consummated within fifteen days (15) thereafter, and the

Association, as attorney-in-fact, shall disburse such proceeds as is provided in sub-paragraph (b) (1) through (5) of this Article.

(e) The owners representing an aggregate ownership interest of three-fourths (3/4ths) of the condominium units, covered by this Declaration, or more, may agree that the general common elements of the property are obsolete and that the same should be sold. In such instance, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's President and Secretary, the entire premises shall be sold by the Association, as attorney-in-fact for all of the owners, free and clear of the provisions contained in this Declaration, the Map and By-Laws. The sales proceeds shall be apportioned between the owners on the basis of each owner's percentage interest in the general common elements, and such apportioned proceeds shall be paid into as many separate accounts as there are units covered by this Declaration, each such account representing one condominium unit. Each such account shall be in the name of the Association, and shall be further identified by the number of the Apartment and the name of the owner. From each separate account, the Association, as attorney-in-fact, shall use and disburse the total amount (of each) of such funds, without contribution from one fund to another, for the same purposes and in the same order as is provided in sub-paragraph (b) (1) through (5) of this Article.

31. Prior to the first conveyance of any condominium unit, Declarant shall execute and deliver a bill of sale to the Association transferring all items of personal property located on the entire premises and furnished by Declarant, which property is intended for the common use and enjoyment of the condominium unit owners and occupants. No owner shall have any other interest and right thereto, and all such right and interest shall absolutely terminate upon the owner's termination of possession of his condominium unit.

32. All notices, demands, or other notices intended to be served upon an owner shall be sent by ordinary or certified mail, postage prepaid, addressed in the name of such owner in care of the apartment number and building address of such owner, if such owner is occupying such apartment; otherwise such notices, etc., shall be sent to an owner at his last known mailing address. Where there shall be more than one (1) owner of a unit (i.e., where a unit is owned by co-tenants or joint-tenants), notice or demand to any one (1) of such owners shall constitute notice to all of such owners. All notices, demands, or other notices intended to be served upon or to the Board of Managers of the Association, or the Association shall be sent by ordinary or certified mail, postage prepaid, to P. O. Box 5341, Beaumont, Texas 77706, until such address is changed by a notice of address change duly recorded.

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33. If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase, or word, or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

34. The provisions of this Declaration shall be in addition and supplemental to the Condominium Act of the State of Texas and to all other provisions of law.

35. That whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

36. FIDELITY SAVINGS AND LOAN ASSOCIATION, acting herein by and through its duly authorized officers, being the holder of a Deed of Trust Lien upon the hereinabove described property, joins in the execution hereof, at the request of and as an accommodation to Declarant, and for the purpose of evidencing its subordination of the Lien held by it to the establishment of this condominium regime under the Condominium Act of the State of Texas and to the provisions of this Declaration. It is, however, specifically stipulated that by the execution hereof, FIDELITY SAVINGS AND LOAN ASSOCIATION does not bind itself, its successors or assigns, to any of the affirmative covenants or duties of Declarant and expressly disaffirms the assumption of any liability, duty or obligation herein contained on the part of Declarant, its successors or assigns.

EXECUTED this the 1st day of February, 1978, A.D.

James P. Ritter
JAMES P. RITTER ("Declarant")

FIDELITY SAVINGS AND LOAN ASSOCIATION
("Lienholder")

By: James Jay Jackson
Jr. Vice President
James Jay Jackson

ATTEST: Dean E. Rutland
~~Assistant~~ Secretary
Dean E. Rutland

THE STATE OF TEXAS §

COUNTY OF JEFFERSON §

BEFORE ME, the undersigned authority, on this day personally appeared JAMES P. RITTER, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 16 day of February, 1978, A.D.

Virginia N. Voss
Notary Public in and for
Jefferson County, Texas
Virginia N. Voss

THE STATE OF TEXAS §

COUNTY OF JEFFERSON §

BEFORE ME, the undersigned authority, on this day personally appeared James Ray Jackson, Jr. Vice President of FIDELITY SAVINGS AND LOAN ASSOCIATION, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed as the act and deed of said Association.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 17th day of February, 1978, A.D.

NOTARY PUBLIC COUNTY OF JEFFERSON TEXAS

Jean Peterson
Notary Public in and for
Jefferson County, Texas

Jean Peterson

EXHIBIT "B"
BY-LAWS

OF

BAYOU SHADOWS TOWNHOMES
BEAUMONT, TEXAS

ARTICLE I.
OBJECT
(Plan of Apartment Ownership)

1. The purpose for which this non-profit Association is formed is to govern the condominium property situated in the City of Beaumont, County of Jefferson, State of Texas, which property is described and depicted in Exhibit "A", which by this reference is made a part hereof, and which property has been submitted to the provisions of the Condominium Act of the State of Texas.

2. All present or future owners, tenants, future tenants, or any other person that might use the facilities of the project in any manner, are subject to the regulations set forth in these By-Laws. The mere acquisition or rental of any of the condominium units (hereinafter referred to as "units") of the project or the mere act of occupancy of any of said units will signify that these By-Laws are accepted, ratified, and will be complied with.

ARTICLE II.
MEMBERSHIP, VOTING, MAJORITY OF OWNERS, QUORUM PROXIES

1. Membership. Any person on becoming an owner of a condominium unit shall automatically become a member of this Association and be subject to there By-Laws. Such membership shall terminate without any formal Association action whenever such person ceases to own a condominium unit, but such termination shall not relieve or release any such former owner from any liability or obligation incurred under, or in any way connected with the condominium regime established by the foregoing Declaration, during the period of such ownership and membership in this Association, or impair the rights or remedies which the Board of Managers or the Association or others may have against such former owner and member arising out of or in

any way connected with such ownership and membership, and the covenants and obligations incident thereto. No certificates of stock shall be issued by the Association, but the Board of Managers may, if it so elects, issue one (1) membership card to the owner(s) of a condominium unit. Such membership card shall be surrendered to the Secretary whenever ownership of the condominium unit designated thereon shall terminate.

2. Voting. Voting shall be based upon the percentage of the undivided interest in the common elements attributable to each condominium unit. Each condominium unit shall constitute a single voting unit, and the owner(s) thereof shall be entitled to cast but a single vote therefor, which vote, however, shall be of that unit's respective percentage of ownership (as set forth in the foregoing Declaration). By way of example, the owner(s) of Unit 1, Building "A" shall cast a single vote for such unit, which vote shall be of the unit's undivided 3.850 percent interest in the common elements.

Voting of fractional interests is, therefore, prohibited, and cumulative voting is likewise prohibited.

3. Majority of Unit Owners. As used in these By-Laws, the term "majority of unit owners" means the apartment owners with fifty-one percent (51%) or more of the votes weighted so as to coincide with percentages of ownership assigned in the foregoing Declaration to the respective units.

4. Quorum. Except as otherwise provided in these By-Laws, the presence in person or by proxy of a "majority of unit owners" as defined in paragraph 3 of this Article shall constitute a quorum.

5. Proxies. Votes may be cast in person or by proxy. Proxies may be filed with the Secretary before the appointed time of each meeting.

## ARTICLE III.
## ADMINISTRATION

1. Association Responsibilities. The owners of the units will constitute the Association of Unit Owners, hereinafter referred to as "Association," who will have the responsibility of administering the project through a Board of Managers.

2. Place of Meeting. Meetings of the Association shall be held at such place as the Board of Managers determine.

3. Annual Meetings. The first annual meeting of the Association shall be held on or before one (1) year after the date hereof. Thereafter, the annual meetings of the Association shall be held on the first Monday of the month in which these By-Laws are signed each succeeding year. At such meetings there shall be elected by ballot of the owners a Board of Managers in accordance with the requirements of Paragraph 5 of Article IV of these By-Laws. The owners may also transact other business of the Association as may properly come before them.

4. Special Meetings. It shall be the duty of the President to call a special meeting of the owners as directed by resolution of the Board of Managers, or upon a petition signed by a majority of the owners and having been 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 four-fifths (4/5ths) of the owners present, either in person or by proxy.

5. Notice of Meetings. It shall be the duty of the Secretary to 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 owner of record, at least five (5), but not more than twenty (20) days prior to such meeting. The mailing of a notice in the manner provided in this paragraph shall be considered notice served.

6. Adjourned Meeting. If any meeting of owners cannot be organized because a quorum has not attended, the owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called.



7. Order of Business. The order of business at all annual meetings of the owners of units 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 Managers
(g) Unfinished business
(h) New Business

## ARTICLE IV
## BOARD OF MANAGERS

1. Number and Qualification. The Affairs of this Association shall be governed by a Board of Managers composed of three (3) persons. The following persons shall act in such capacity and shall manage the affairs of the Association until the first annual meeting of the owners, or until their successors are elected, to-wit: JOE IMPEY, JAMES P. RITTER and H. BRADFORD BLACK.

All members of the Board of Managers shall be owners of apartment units.

2. Powers and Duties. The Board of Managers shall have the powers and duties necessary for the administration of the affairs of the Association and for the operation and maintenance of a first class residential condominium project. The Board of Managers may do all such acts and things as are not by these By-Laws or by the foregoing Condominium Declaration directed to be exercised and done by the owners.

3. Express Powers and Duties. The Board of Managers shall be empowered and shall have the duties as follows:

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

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

(c) To keep in good order, condition and repair all of the general and limited common elements and all items of common personal property used in the enjoyment of the entire premises.

(d) To insure and keep insured all of the insurable general common elements of the property as provided in the Declaration.

Further, to obtain and maintain an owners, landlord and tenant comprehensive liability insurance covering the entire premises in amounts not less than $300,000.00 per accident for bodily injury and $50,000.00 property damages and such other types and kinds of insurance as a majority of unit owners may direct. To insure and keep insured all of the fixtures, equipment and personal property acquired by the Association for the benefit of the Association and the owners of the condominium units and their first mortgagees.

(e) To fix, determine, levy and collect the monthly prorated assessments. 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 or costs, or additional capital expense, or because of emergencies.

(f) To collect delinquent assessments by suit or otherwise and to enjoin or seek damages from an owner as is provided in the Declaration and these By-Laws.

(g) To protect and defend the entire premises from loss and damage by suit or otherwise.

(h) To borrow funds in order to pay for any expenditure or outlay required and to execute all such instruments evidencing such indebtedness which shall be the several obligation of all of the owners in the same proportion as their interest in the general common elements.

(i) To establish a bank account for the common treasury and for all separate funds which are required, or may be deemed advisable, by the Board of Managers.

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

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

(m) To meet at least once each quarter.

(n) To employ the personnel necessary for the maintenance and operation of the general and limited common elements or to enter into contracts for the maintenance and operation thereof.

(o) In general, to carry on the administration of this Association and to do all of those things, necessary and reasonable, in order to carry out the communal aspect of condominium ownership.

4. Discretionary Powers. The Board of Managers, in its sole discretion, may exercise any or all of the following discretionary powers:

(a) To establish, make and enforce compliance with reasonable rules and regulations for the use of the condominium guest parking areas and recreational facilities (i.e., the swimming pool) by residents and their guests, and to establish and collect reasonable fees for the use of such condominium recreational facilities, with the right to amend or change the same from time to time.

(b) To elect to be taxed on Association taxable income pursuant to Sec. 528 of the Internal Revenue Code and to take such other action as shall be necessary to qualify the Association under said Code Sec. 528.

(c) To enter into contracts of sale, rental or lease, upon such terms and considerations as it shall determine, of any unit acquired by the Association pursuant to the provisions of the Declaration (such as on the exercise by the Association of its right of first refusal on the sale of a unit by the owner thereof).

5. Election and Term of Office. At the first annual meeting of the Association and at each annual meeting thereafter there shall be elected three ( 3 ) persons to serve as a Board of Managers. The term of each member of the Board of Managers shall be one (1) year, or until his successor is elected.

6. Vacancies. Vacancies on the Board of Managers caused by any reason other than the removal of a Manager by a vote of the Association shall be filled by vote of the majority of the remaining Managers, even though they may constitute less than a quorum, and each person so elected shall be a Manager until a successor is elected at the next annual meeting of the Association.

7. Removal of Managers. At any regular or special meeting duly called, any one (1) or more of the Managers may be removed with or without cause by a majority of the owners, and a successor may then and there be elected to fill the vacancy thus created. Any Manager whose removal has been proposed by the owners shall be given an opportunity to be heard at the meeting.

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

9. Regular Meetings. Regular meetings of the Board of Managers may be held at such time and place as shall be determined, from time to time, by a majority of the Managers, but at least four (4) such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Managers shall be given to each Manager, personally or by mail, telephone or telegraph, at least three (3) days prior to the day named for such meeting.

10. Special Meeting. Special meetings of the Board of Managers may be called by the President on three (3) days' notice to each Manager, given personally, or by mail, telephone or telegraph, which notice shall state the time, place (as hereinabove provided) and

purpose of the meeting. Special meetings of the Board of Managers shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) Managers.

11. Waiver of Notice. Before or at any meeting of the Board of Managers, any Manager may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Manager at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all Managers are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

12. Board of Managers' Quorum. At all meetings of the Board of Managers, a majority of the Managers shall constitute a quorum for the transaction of business, and the acts of the majority of the Managers present at a meeting at which a quorum is present shall be the acts of the Board of Managers. If, at any meeting of the Board of Managers, there be less than a quorum present, 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.

13. Fidelity Bonds. The Board of Managers may require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

14. Liability of Board of Managers. Members of the Board of Managers shall not be liable to the unit owners for mistakes in judgment, for negligence, or otherwise, except only for their willful misconduct or bad faith. No member of the Board of Managers shall be personally liable with respect to any contract made by the Board of Managers on behalf of the Association, and the owners shall indemnify the Board of Managers and each member thereof against all contractual liability to third parties arising out of contracts made by the Board of Managers on behalf of the Association. However, such indemnification shall not extend to any contract made in bad faith or contrary to the provisions of the Declaration, these By-Laws or the Condominium Act of the State of Texas, as same shall be amended from time to time. The liability of each unit owner arising out of any contract made by the Board of Managers or out of the aforesaid indemnification of the members of the Board of Managers shall be the proportion of total liability that such unit owner's interest in the common elements bears to the interests of all unit owners in the common elements. Every Agreement or contract made by the Board of Managers or by any designated representative or manager employed by the Board of Managers on behalf of the Association shall provide that the members of the Board of Managers or the representative or manager, as the case may be, are acting only as agents for the unit owners, and shall have no personal liability thereunder except as unit owners, and shall further provide that each unit owner's liability thereunder is limited to the proportion of total liability that his interest in the common elements bears to the interest of all unit owners in the common elements.

15. Compensation. No member of the Board of Managers shall receive any compensation from the Association for acting as such. Nothing herein contained shall preclude any member of the Board of Managers from serving the Association in any other capacity (such as

maintenance contractor, attorney, accountant, or the like) and receiving compensation therefor.

16. Acts by Majority. Any action to be taken or document to be executed by the Board of Managers shall be effective if taken or executed by a majority of such Board, provided that such action or the execution of such document shall have been authorized by appropriate Board vote or agreement, as herein required.

## ARTICLE V.
## OFFICERS

1. Designation. The officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer, all of whom shall be elected by and from the Board of Managers. Any two (2) or more officers may be held by the same persons, except that the offices of President and Secretary shall not be held by the same person.

2. Election of Officers. The officers of the Association shall be elected annually by the Board of Managers at the organizational meeting of each new Board and shall hold office at the pleasure of the Board.

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

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

5. Vice President. The Vice President shall act in the place of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board of Managers.

6. Secretary. The Secretary shall keep all the minutes of all meetings of the Board of Managers and the minutes of all meetings of the Association; he shall have charge of such books and papers as the Board of Managers may direct; and he shall, in general, perform all the duties incident to the office of Secretary. The Secretary shall compile and keep up to date at the principal office of the Association a complete list of members and their last known addresses as shown on the records of the Association. Such list shall also show opposite each member's name the number or other appropriate designation of the apartment unit owned by such member and the ownership percentage allocated to such apartment unit by the Declaration. Such list shall be open to inspection by members and other persons lawfully entitled to inspect the same at reasonable times during regular business hours. The Secretary shall also maintain a list of mortgagees of the units, reflecting therein the name and address of each mortgagee and the unit or units mortgaged to

such mortgagee.

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

## ARTICLE VI.
## OBLIGATIONS OF THE OWNERS

1. Assessments. All owners, upon completion of the purchase thereof, or occupancy by such owner or tenant, whichever occurs first, shall be obligated to pay the monthly assessments imposed by the Association to meet the common expenses. The assessments shall be made pro rata according to percentage interest in and to the general common elements and shall be due monthly in advance. A member shall be deemed to be in good standing and entitled to vote at any annual or special meeting of members, within the meaning of these By-Laws, if and only if he shall have fully paid all assessments made or levied against him and the condominium unit owned by him.

2. Maintenance and Repair.

(a) Every owner must perform promptly at his own expense all maintenance and repair work within his own apartment unit, which if omitted would affect the project in its entirety, or in a part belonging to other owners.

(b) All the repairs of internal installations of the unit such as water, light, gas, power, sewage, telephone, air conditioners, sanitary installations, electrical fixtures, and all other accessories, equipment and fixtures belonging to the unit area shall be at the owner's expense. External installations of each unit, such as electric lines, wires, conduits and systems and heating and air conditioning systems shall be maintained by the owner of the unit exclusively served by same. An owner shall also maintain all the plumbing serving his apartment exclusively; but maintenance of sewer lines serving more than one (1) apartment unit and running from the end of an apartment unit's single sewer line to the point where such sewer line becomes the property of the City of Beaumont shall be "common expenses".

(c) Damage to exterior doors and windows shall be repaired by and at the expense of the owner, provided, however, if such damage or loss is covered by insurance, such owner shall be entitled to reimbursement to the extent of the insurance payment. Replacement or repair of exterior doors or windows required because of ordinary wear and tear and deterioration shall be paid for out of the assessments levied and collected by the Board of Managers.

(d) An owner shall be obligated to reimburse the Association promptly upon receipt of its statement for any expenditures incurred by it in repairing or replacing any general or limited common element damaged by his negligence or by the negligence of members of his family or his guests, tenants, or agents.

3. Mechanic's Lien. Each owner agrees to indemnify and to hold each of the other owners harmless from any and all claims of Mechanic's Lien filed against other apartment units and the appurtenant general common elements for labor, materials, services or other products incorporated in the owner's apartment unit. In the event suit for foreclosure is commenced, then within ten (10) days thereafter such owner shall be required to deposit with the Association cash or negotiable securities equal to the amount of such claim, plus ten percent (10%) interest thereon for one (1) year, together with the sum of One Hundred Dollars ($100.00). Such sum or securities shall be held by the Association pending final adjustment or settlement of the litigation. Disbursements of such funds or proceeds shall be made to insure payment of or on account of such final judgment or settlement. Any deficiency shall be paid forthwith by the subject owner, and his failure to pay shall entitled the Association to make such payment, and the amount thereof shall be a debt of the owner and a lien against his condominium unit, which may be foreclosed as is provided in paragraph 24 of the Declaration.

4. General.

(a) Each owner shall comply strictly with the provisions of the foregoing Condominium Declaration.

(b) Each owner shall always endeavor to observe and promote the cooperative purposes for the accomplishment of which the project covered by the foregoing Declaration was built.

5. Use of Units - Internal Changes.

(a) All units shall be utilized for single family residential purposes only, and no unit shall be occupied other than on a temporary basis by more than two (2) persons per bedroom and the occupancy by more than such number continuing for a period of ten (10) days shall be deemed for this purpose to constitute permanent occupancy.

(b) An owner shall not make structural modifications or alterations to his unit or installations located therein, without previously notifying the Association in writing through the President or Secretary of the Board of Managers. The Association shall have the obligation to answer within five (5) days after such notice, and failure to do so within the stipulated time shall mean there is no objection to the proposed modification or alteration.

(c) An owner, however, with the approval of design thereof by the Board of Managers may install exterior awnings or covers over the Patio area assigned to his unit, with the cost of installation and the maintenance thereof to be borne by such owner.

6. Use of General Common Elements and Limited Common Elements. Each owner may use the general common elements and the limited common elements in accordance with the purpose for which they were intended, without hindering or encroaching upon the lawful rights of the other owners, subject to such rules and regulations as may be adopted by the Board of Managers from time to time.

7. Right of Entry.

(a) An owner shall grant the right of entry to the Board of Managers, or to any person authorized by the Board of Managers, in case of any emergency originating in or threatening his unit, whether the owner is present at the time or not.

(b) An owner shall permit other owners, or their respesentatives, when so required, to enter his unit for the purpose of performing installations, alterations or repairs to the mechanical or electrical services, provided that requests for entry are made in advance and that such entry is at a time convenient to the owner. In case of an emergency, such right of entry shall be immediate.

8. Rules and Regulations.

(a) All owners shall promptly and completely comply with each of the rules and regulations herein contained or hereafter properly adopted for the utilization of any recreational facilities that may be afforded. All owners and their guests shall achieve maximum utilization of such facilities consonant with the rights of each of the other owners thereto.

(b) Nothing shall be done in any residential unit, nor shall same be occupied or used for any purpose, nor shall any commodity, product or personal property be kept therein or thereon, which shall cause such improvements to be uninsurable against loss by fire, or the perils included in an extended coverage endorsement under the rules of the State of Texas Insurance Commission, or which might cause or warrant any policy or policies covering said premises to be cancelled or suspended by the issuing Company.

(c) Owners and occupants shall at all times exercise extreme care to avoid making or permitting to be made loud or objectionable noises, and in using or playing or permitting to be used or played musical instruments, radios, phonographs, television sets, amplifiers, and any other instruments or devices in such manner as may disturb or tend to disturb owners, tenants, or other occupants of condominium units in the condominium regime established by the foregoing Declaration. No unit shall be used or occupied in such manner as to obstruct or interfere with the enjoyment of occupants or other residents of adjoining units, nor shall any nuisance or immoral or illegal activity be committed or permitted to occur in or on any unit or upon any part of the common elements of the condominium regime established by the foregoing Declaration.

(d) The common area is intended for use for the purpose of affording vehicular and pedestrian movement within the

condominium, and of providing access to the units; those portions thereof adapted therefor, for recreational use of and by the owners and occupants of units; and all thereof for the beautification of the condominium and for providing privacy for the residents thereof through landscaping and such other means as shall be deemed appropriate. No part of the common area shall be obstructed so as to interfere with its use for the purposes hereinabove recited, nor shall any part of the common area (common elements) be used for general storage purposes after the completion of the construction of the units by developer, nor anything done thereon in any manner which shall increase the rate for hazard and liability insurance covering said area and the improvements situated thereon. No owner shall park or store, or permit to be parked or stored, upon the common elements of the condominium, any boat, trailer, camping or travel trailer, mobile home, motorcycle, or any similar vehicle, except wholly within the garage assigned to such unit or such owner or wholly within the privacy fence assigned to such unit. No boats, trailers, camping trailers, mobile homes, motor homes or similar vehicles shall be parked, placed or stored in or on the streets, easements or alleyways in front of, behind or adjacent to the units on a "permanent basis", which shall be taken to mean any period or periods in excess of seventy-two (72) consecutive hours or periods in excess of twelve (12) hours on any two (2) successive days. Not more than two (2) dogs, cats or other usual household pets may be kept in any unit, and provided always that such household pets may be allowed on the common areas only as may be specified under reasonable rules therefor promulgated by the Board of Managers. Except as hereinabove stated, no animal, livestock, bird or poultry shall be brought within the condominium or kept in or around any unit thereof. The Board of Managers may, at its discretion, prohibit the keeping of any household pets in any unit.

(e) No resident of the condominium shall post any advertisements, signs or posters of any kind in or on the project except as authorized by the Board of Managers of the Association.

(f) Parking of automobiles and other vehicles shall be only in the spaces designated for parking for each unit; no unattended vehicle shall at any time be left in the alleyways or in the streets of the condominium in such a manner as to impede the passage of traffic or to impair proper access to parking areas. There are located in the esplanade (i.e., the area encompassed within the private street in which area is located the swimming pool, terrace and mail kiosk) areas for automobile parking. These areas are reserved for guest or visitor parking, and residents shall not park vehicles in these areas except on a temporary or emergency basis. Garages and storage areas shall at all times be kept free of unreasonable accumulation of debris or rubbish of any kind.

(g) It is prohibited to hang garments, rugs and/or any other materials from the windows or from any of the facades of the project.

(h) It is prohibited to dust rugs or other materials from the windows, or to claim rugs by heating on the exterior part of the condominium units, or to throw any dust, trash, or garbage out of any of the windows of any of the units.

(i) It is prohibited to throw garbage or trash outside the disposal installations or areas established for such purpose.

(j) No owner, resident, or lessee shall install wiring for electrical or telephone installation, television antenna, machines or air conditioning units or any other devices whatsoever on the exterior of the project or that protrude through the walls or out of the windows, or on the roof of the project save as are expressly in writing previously approved by the Association.

(k) No owner or other occupant of any condominium unit shall make any alteration or improvement to the common elements of the condominium or remove any planting, structure, furnishings or other equipment or object therefrom except with the written consent of the Association.

9. Destruction or Obsolescence. Each owner shall, upon becoming an owner of a condominium unit, be deemed to have executed and granted a power of attorney in favor of the Association, irrevocably appointing the Association his attorney-in-fact to deal with the owner's condominium unit upon its destruction or obsolescence as is provided in Article 30 of the foregoing Condominium Declaration.

## ARTICLE VII.
## AMENDMENTS TO PLAN OF APARTMENT OWNERSHIP

1. By-Laws. These By-Laws may be amended by the Association at a duly constituted meeting for such purpose, and no amendment shall take effect unless approved by owners representing at least seventy percent (70%) of the aggregate interest of the undivided ownership of the general common elements.

## ARTICLE VIII.
## MORTGAGES

1. Notice to Association. An owner who mortgages his unit shall notify the Association through the President or Secretary of the Board of Managers, giving the name and address of his mortgagee. The Association shall maintain such information in a book entitled "Mortgagees of Units".

2. Notice of Default. A first mortgagee of any unit, at its request to the Association, or to the Board of Managers thereof, shall be entitled to written notification from the Association of any default by the mortgagor of such unit in the performance of such mortgagor's obligations under the condominium documents which is not cured within sixty (60) days.

3. Examination of Books and Records. A first mortgagee shall have the right to examine the books and records of the Association or the condominium project during normal business hours.

ARTICLE IX.
COMPLIANCE

These By-Laws are set forth to comply with the requirements of the State of Texas Condominium Act. If any of these By-Laws conflict with the provisions of said statute, it is hereby agreed and accepted that the provisions of the statute will apply. Furthermore, in the event of any conflict between these By-Laws and the Declaration, the provisions of the Declaration shall control.

ARTICLE X.
NON-PROFIT ASSOCIATION

This Association is not organized for profit. No owner or member of the Board of Managers shall receive or shall be lawfully entitled to receive any pecuniary profit from the operation thereof, and in no event shall any part of the funds or assets of the Association be distributed to, or inure to the benefit of, any member of the Board of Managers.

ARTICLE XI.
REGISTERED OFFICE

The registered office and the principal office for the transaction of business of this Association shall be, until changed in writing, P. O. Box 5341, Beaumont, Texas 77706, and the registered agent shall be JAMES P. RITTER, at said same address.

ARTICLE XII.

The persons who shall be authorized to execute any and all instruments of conveyance or encumbrance, including promissory notes, for and on behalf of the Association shall be the President or Vice President and Secretary of the Association.

IN WITNESS WHEREOF, the undersigned have hereunto subscribed their names at Beaumont, Texas, this the 1st day of February, 1978, A.D.

BOARD OF MANAGERS

Joe Impey
JOE IMPEY, Manager

James P Ritter
JAMES P. RITTER, Manager

H. Bradford Black
H. BRADFORD BLACK, Manager

DECLARANT

James P Ritter
JAMES P. RITTER

THE STATE OF TEXAS §

COUNTY OF JEFFERSON §

BEFORE ME, the undersigned authority, on this day personally appeared JAMES P. RITTER, known to me to be the person whose name

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is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacities therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 16 day of February, 1978.

Virginia N. Voss
Notary Public in and for
Jefferson County, Texas
Virginia N. Voss

Clerk's Note: no Notary Seal.

THE STATE OF TEXAS §

COUNTY OF JEFFERSON §

BEFORE ME, the undersigned authority, on this day personally appeared JOE IMPEY, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 16 day of February, 1978.

Virginia N. Voss
Notary Public in and for
Jefferson County, Texas
Virginia N. Voss

Clerk's Note: no Notary Seal.

THE STATE OF TEXAS §

COUNTY OF JEFFERSON §

BEFORE ME, the undersigned authority, on this day personally appeared H. BRADFORD BLACK, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 16 day of February, 1978.

Virginia N. Voss
Notary Public in and for
Jefferson County, Texas
Virginia N. Voss

Clerk's Note: no Notary Seal.

Clerk's Note: Map Recorded in Vol. 2, Page 88, Condominium Records, Jefferson County, Texas.

FILED FOR RECORD 978155
K X Bond
COUNTY CLERK
JEFFERSON COUNTY, TEXAS
FEB 21 8 30 AM '78