

2-795

DECLARATION OF CONDOMINIUM

FOR

MISSION SQUARE

STATE OF ALA. MADISON CO.  
CERTIFIED TRUE INSTRUMENT  
WAS FILED ON

OCT 10 9 47 AM '86

MISSION SQUARE DEVELOPMENT, CO., INC., an Alabama Corporation, herein called the "Declarant", its successors and assigns does hereby on this 3 day of OCT., 1986, make, declare and publish its intention and desire to submit and does hereby submit the real property hereinafter described to condominium ownership and use, in accordance with the "Condominium Ownership Act" as set out in Section 35-8-1, et seq, Alabama Code (1975).

1. Name. The name by which this condominium is to be identified is MISSION SQUARE.

2. Description of the land. The description of the real property to be included, which is submitted hereto to condominium ownership is lying and being in the City of Huntsville, County of Madison, State of Alabama, to-wit:

All that part of the northwest quarter of Section 32, Township 3 South, Range 1 West of the Huntsville Meridian, Madison County, Alabama.

Particularly described as beginning at an iron stake on the northerly right-of-way of U.S. Highway No. 72; said point of true beginning is further described as being North 03 degrees 33 minutes 42 seconds West, 363.00 feet; North 87 degrees 14 minutes 30 seconds East, 610.10

feet; South 02 degrees 31 minutes 44 seconds East, 1433.53 feet; South 73 degrees 37 minutes 10 seconds East, 291.70 feet; South 74 degrees 22 minutes 52 seconds East, 236.10 feet and South 75 degrees 11 minutes 20 seconds East, 1423.05 feet from the Northwest corner of Section 32, Township 3 South, Range 1 West.

Thence from the point of true beginning, North 02 degrees 31 minutes 44 seconds West, 400.00 feet to a point;

Thence South 75 degrees 11 minutes 20 seconds East, 206.14 feet to a point;

Thence South 03 degrees 03 minutes 16 seconds East 401.17 feet to a point on the northerly margin of the right-of-way for U.S. Highway No. 72; Thence along the northerly margin of said right-of-way, North 75 degrees 11 minutes 20 seconds West, 210.00 feet to the point of true beginning and containing 79,449.22 square feet or 1,824 acres more or less.

SUBJECT TO: A 15.00 foot wide easement, taken evenly off of and parallel with the south boundary of the above described parcel of land, and a 10.00 foot wide easement taken evenly off of and parallel with the west boundary of the above described parcel of land, is hereby reserved by the Grantor, his successors, and assigns for the installation and maintenance of utilities, sewers, and drainage facilities.

ALSO SUBJECT TO: A 10.00 foot wide sanitary sewer easement described and recorded in Deed Book 505, Page 837, Probate Records, Madison County, Alabama.

3. Definitions. The terms used in the condominium documents shall have the meaning stated in the "Condominium Ownership Act" are as follows unless the context requires otherwise:

A. "Articles of Incorporation" means the articles of incorporation of Mission Square Condominium Association, Inc., an Alabama non-profit corporation.

B. "Assessment" means a share of the funds required for the payment of common expenses, including insurance, maintenance and fees required for the administration of the condominium and charges and expenses of the association, which are assessed against the unit owners by this declaration and the Board of Directors of the association as necessary from time to time.

C. "Association" means the MISSION SQUARE CONDOMINIUM ASSOCIATION, INC., a non-profit Alabama corporation, which is and shall be responsible for the operation, administration and management of a condominium.

D. "Board of Directors" or "Board" means the Board of Directors of MISSION SQUARE CONDOMINIUM ASSOCIATION, INC.

E. "Building" means any structure containing one or more units.

F. "By-Laws" means the By-Laws adopted by MISSION SQUARE CONDOMINIUM ASSOCIATION, INC.

G. "Common Elements" means common areas and facilities as defined in said Act, including but not limited to all parts of the condominium property not included within the Unit boundaries as described hereinafter, and shall include the tangible personal property required for the

maintenance and operation of the condominium as well as the items stated in the Condominium Ownership Act of Alabama.

H. "Common Expenses" means those expenses derived from ownership of the common elements for which the unit owners are liable to the Association.

I. "Common Surplus" means the excess of all receipts of the Association arising out of ownership of the common elements over the amount of common expenses.

J. "Condominium" means a form of ownership of the real and personal property or a combination thereof, covered by this Declaration, the Articles of Incorporation and the By-Laws of the Association.

K. "Condominium Ownership Act" means Act No. 1059 of the 1973 Session of the Legislature of the State of Alabama and presently codified in Code of Alabama, 1975 as Section 35-8-.1 et seq.

L. "Condominium Property" means and includes all existing properties, and additions thereto, as are subject to this Declaration or any supplemental declaration under the provisions of Article 18 hereof.

M. "Declaration" means the within document, as such Declaration may be amended from time to time.

N. "Person" means any individual corporation, partnership, association, trustee, fiduciary or other legal entity.

O. "Private Elements" means that part or parts of the condominium property intended for exclusive ownership or possession by a unit owner.

P. "Developer" means MISSION SQUARE DEVELOPMENT CO., INC., an Alabama Corporation.

Q. "Unit" means the private elements of the condominium property together with the undivided interest and the common element and limited



common elements, which are assigned thereto in the declaration or any amendments thereto.

R. "Unit Owners" means the person or persons owning a unit in fee simple.

S. The use of the plural shall include the singular and the singular shall include the plural, and the use of any gender shall be deemed to include all genders.

4. Identification of Units. Each unit is identified and designated as set forth in the survey contained in Exhibit A annexed hereto and made a part hereof.

5. Survey, Graphic Description and Plat Plan. A survey of the land, and a graphic description of the improvements in which units are located and a plat plan thereof are attached hereto as a part of Exhibit A.

6. Description of the Units. Each unit shall consist of the following:

A. The volumes or cubicles or space enclosed by the unfinished inner surfaces of perimeter and interior walls, ceilings and floors thereof, doors, windows and such other structural elements as is ordinarily considered to be enclosures of space and including the volume or cubicle of space enclosed.

B. All interior dividing walls and partitions including the space occupied by such interior walls or partitions, excepting load bearing interior walls and partitions.

C. The decorated inner surfaces of the perimeter and interior walls (including decorated inner surfaces of all interior load bearing walls), floors and ceilings consisting of wall paper, paint, plaster, carpeting,

tiles and other finishing materials fixed or installed as part of the physical structure of the office unit.

D. All fixtures, mechanical systems, and other equipment installed for the sole and exclusive use of the unit.

E. The unit shall include the heating and air conditioning apparatus which apparatus shall be part of the unit. Any portion of a utility system serving more than one unit \_e.g., "pipes of conduits," ducts, which is partially within and partially without the unit, is part of a common element.

F. All pipes, wires, conduits or other utility lines or installations constituting a part of the overall system designed for the service of any particular unit or buildings or any of the structural members or portion of any kind including fixtures and appliances in a unit, which are not removable without jeopardizing the soundness, safety or usefulness of the remainder of the building shall be deemed to be a private element.

7. Description of Common Elements. The share of common elements appurtenant to each unit shall consist of an undivided share and the common areas and facilities including, but not limited to, the following:

A. The parcel of land on which the improvements are located as described in Exhibit A.

B. All parts of the improvements which are not contained within the private elements including foundations, roofs, concrete floors, ceilings, perimeter walls, load bearing interior walls and partitions, columns, beams, slabs, pipe chases, balconies, terraces, air conditioning and heating units, and the space actually occupied by all these items, plate glass windows of units, except for the unit-side surface thereof, and

doors and frames of doors leading from units to the outside, except for the unit-side surface thereof.

C. All of the area outside the units, including the parking area, driveways, walkways, paths, trees, shrubs, grounds, and gardens located or to be located on the condominium property described herein.

D. Portions of the land and buildings and other improvements used exclusively for the management, operation and maintenance of the property.

E. Installation of all central services and utilities, water, sewer, electric, telephone and utility lines, pipes, conduits, fixtures and associated equipment and facilities, which serve the common element or serve more than one unit or both.

F. All other apparatus and installations existing in the buildings for common use or necessary or convenient to the existence, maintenance or safety of the building.

G. All other items listed as such in the Condominium Ownership Act and located on the property.

8. Pipes, Wires, Ducts, Cables, Conduits, Public Utility Lines and Other Common Elements Inside of Units. Each unit owner shall have an assessment in common with the owners of all other units to use all pipes, wires, ducts, cables, conduits, public utility lines and other common elements located in any of the other units and serving his unit. Each unit shall be subject to an easement in favor of the owners of all other units to use the pipes, wires, flues, cable, conduits, public utility lines and other common elements serving such other units and located in such unit. The Board of Directors shall have a right of access to each unit to inspect the same, to remove violations therefrom and to maintain,

repair, replace or make additions to the common elements therein or elsewhere in the buildings.

9. (a) Ownership Percentage. Each unit owner shall own a share in the common elements as follows:

38 Units - - 1/38

(b) Common Expenses and Common Surplus. Each unit owner shall bear that percentage of the common expenses and common surplus corresponding to his interest in the common elements as stated in paragraph 9 (a) above.

(c) Purchasers' Condominium Fund. At the time that the purchaser closes on a condominium unit he shall be obligated to pay to the Developer 1/38th of all prepaid startup fees. At the time the purchaser closes a condominium unit he shall be obligated to pay to the Association two (2) months maintenance fees as initial contribution, which will be deposited into the condominium reserve working capital fund.

The payment of common expenses by all unit owners, shall commence upon the recording of this Declaration of Condominium in the Public Records of Madison County, Alabama.

Common expenses include the expenses of the operation, maintenance, repair, or replacement of the common elements, costs or carrying out the powers and duties of the association, and any other expense designated as common expense by this chapter, the declaration, the documents creating the condominium, or the by-laws.

Funds for the payment of common expenses shall be collected by assessments against unit owners in the proportion or percentages provided for in this Declaration of Condominium. All unit owners' share of common

expenses shall be in the same proportion as their ownership in the common elements.

Common surplus is owned by unit owners in the same shares as their ownership in the common elements.

10. Association Name. The name of the association shall be MISSION SQUARE CONDOMINIUM ASSOCIATION, INC., a non-profit corporation organized under the laws of the State of Alabama. All unit owners automatically become members of the Association after completion of closing the purchase of a unit in Mission Square.

11. Voting Rights of Owners of Units. There shall be one vote for each unit in the condominium.

12. By-Laws. The By-Laws of the Condominiums shall be the By-Laws of MISSION SQUARE CONDOMINIUM ASSOCIATION, INC.

13. Amendment of Declaration. Except as elsewhere provided, however, this Declaration of Condominium and the Articles of Incorporation and By-Laws of the association may be amended in the following manner:

A. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

B. A resolution for the adoption of a proposed amendment may be proposed by either the Board of Directors of the association or by the members of the association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided such approval is delivered to the secretary at or prior to the meeting. Except as elsewhere provided, such approvals must be either by:

(a) Not less than sixty-six and two-thirds percent (66 2/3%) of the entire membership of the board of directors and by not less than fifty-one percent (51%) of the votes of the entire membership of the association, or

(b) Not less than seventy-five (75%) percent of the votes of the entire membership of the association, or

(c) In the alternative, an amendment may be made by an agreement, signed and acknowledged by all unit owners in the manner required by law for the execution of a deed, and such amendment shall be effective when recorded in the Public Records of Madison County, Alabama, provided, however:

(i) That no amendment shall be made or be valid which shall in any manner impair the security of any institutional lender having a mortgage or other lien against any condominium parcel.

(ii) That no amendment shall be made increasing or decreasing any unit owner's percentage of ownership in the common elements as hereinabove stated, unless the unit owner or unit owners so affected and all record owners or liens thereon shall join in the execution of the amendment.

(iii) Notwithstanding anything to the contrary contained in this Declaration, the Developer expressly reserves the right to amend the Declaration so as to correct any legal description contained herein, which legal description or descriptions may have been incorrect by reason of a scrivener's or surveyor's error. Developer reserves the right to correct such other defects by amendment to this Declaration, properly executed and acknowledged without approval of the association, unit owners, lienors, or

mortgagees of units provided such amendment does not materially affect the property rights of the above named persons.

C. A copy of each amendment shall be certified by the President or a Vice-President and Secretary or Assistant Secretary of the association as having duly adopted, and shall be effective when recorded in the Public Records of Madison County, Alabama.

15. Maintenance, Repair, Alterations, and Improvements of Condominium Property. The responsibility for the maintenance of the condominium property and restrictions upon its alterations and improvements shall be as follows:

A. By the Association: The association shall maintain, repair and replace at the association's own expense:

(1) All common elements.

(2) All air-conditioning and heating systems and equipment other than items providing service to an individual condominium unit.

(3) All portions of the unit (except interior wall surfaces) contributing to the support of the building, which portions shall include, but not be limited to, the outside walls of the building, and load-bearing columns, but excluding interior non-bearing walls.

(4) All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services or fire protection which are contained in the portions of the unit contributing to the support of the building or within interior boundary walls; and all such facilities contained within a unit which service part or parts of the condominium other than the unit within which contained.

(5) All incidental damage caused to a unit by such work shall be promptly repaired at the expense of the association.

B. By the condominium parcel owner: The responsibility of the condominium parcel owner shall be as follows:

(1) To maintain, repair and replace at his expense, all portions of the unit except the portions to be maintained, repaired and replaced by the association. Included within the responsibility of the unit owner shall be windows, screens and doors opening into or onto his unit, sliding glass doors and plate glass. All such maintenance, repairs and replacement shall be done without disturbing the rights of other unit owners.

(2) Within the unit, to maintain, repair and replace at his expense, all fans and air conditioning and heating equipment, light, power, telephone, sewage, and sanitary service to his condominium unit. The unit floors and interior walls shall be maintained by the condominium unit owner thereof at his own expense.

(3) Not to paint or otherwise decorate or change the appearance of any portion of the exterior of the building.

(4) To promptly report to the association any defects or need for repairs, the responsibility for the remedy of which is that of the association.

(5) No condominium parcel owner other than the Developer shall make any alterations in the portions of the building which are to be maintained by the association or remove any portion thereof or make any addition thereto or do any work which would jeopardize the safety or soundness of the building or impair any easement without first obtaining approval from the board of directors of the association.



C. Alteration and Improvement: There shall be no material alterations or substantial additions to common elements, except as the same are authorized by the Board of Directors and ratified by the affirmative vote of voting members casting not less than seventy-five (75%) percent of the total votes of the members of the association present at any regular or special meeting of the unit owners called for that purpose and approved by the institutional mortgagee holding the greatest dollar volume of mortgage on the condominium. The cost of the foregoing shall be assessed as common expenses of this condominium. Where any alterations or additions as aforesaid are exclusively or substantially exclusively for the benefit of the unit owner(s) requesting same, then the cost of such alterations or additions shall be assessed against and collected solely from the unit owners exclusively or substantially exclusively benefitting, and the assessment shall be levied in such proportion as, may be determined as fair and equitable by the Board of Directors of the association. Where such alterations or additions exclusively or substantially exclusively benefit unit owners requesting same, said alterations or additions shall be made only when authorized by the Board of Directors and ratified by not less than seventy-five (75%) percent of the total votes of the unit owners exclusively or substantially exclusively benefitting therefrom and where said unit owners are ten or less, the approval of all but one shall be required. Alterations and improvements or repairs of an emergency nature may be made upon authorizations by a vote of a majority of the directors available for consultations of same is necessitated and in the best interest of the unit owners.

16. Enforcement of Maintenance. In the event the owner fails to maintain it as required above, the association, Developer, or any other unit owner shall have the right to proceed in an court of equity to seek compliance with the foregoing provisions, or the association shall have the right to assess the unit owner and the unit for the necessary sums to maintain the improvements within the unit in good condition. After such assessments, the association shall have the right to have its employees or agents enter the unit and do the necessary work to enforce compliance with the above provision.

17. Prohibition Against Subdividing of Units and Against Partition of Common Elements.

(a) No unit may be divided or subdivided into a smaller unit than is shown on Exhibit "A", nor shall any unit, or portion thereof, be added to or incorporated into any other unit, except by the express written consent of the Board of Directors of the association.

(b) Recognizing the proper use of a unit by an owner is dependent upon the use and enjoyment of the common elements in common with owners of all other units, and that it is in the interest of all owners of the units that the ownership of the common elements be retained in common by the owners of units, it is declared that the percentage of the undivided interest in the common elements appurtenant to each unit shall remain undivided and no owner of any unit shall bring or have the right to bring any action for partition or division thereof.

18. Easements.

(a) The units and common elements shall be, and the same are hereby declared to be subject to the restrictions, easements, conditions and covenants prescribed and established in the condominium documents,

governing the use of said units and common elements and setting forth the obligations and responsibilities incident to ownership of each unit and its appurtenant undivided interest in the common elements. Said units and common elements are further declared to be subject to the restrictions, easements, conditions, and limitations now or record affecting the real property and improvements of the condominium..

(b) Utility easements are reserved throughout the whole of the condominium property, including units, as may be required for utility services, in order to adequately serve the condominium, provided, however, such easements through a unit shall be only in accordance with the plans and specifications of the condominium property, or as the building is constructed, unless changes thereto are approved in writing by the unit owner.

(c) The common elements shall be, and the same is hereby declared to be subject to perpetual non-exclusive easements of way over all road and walkways in favor of all unit owners, for all proper and normal purposes and for the furnishing of services and facilities for which the same are reasonably intended for the enjoyment of said unit owners, subject to all restrictions in the condominium documents.

4. In the event that any unit shall encroach upon any common elements for any reason not caused by the purposeful or negligent act of the unit owner, or agents of such owner, then an easement appurtenant to such unit shall exist for the continuance of such encroach upon the common elements, for so long as such encroachment shall naturally exist; and in the event that any portion of the common elements shall encroach upon any unit, then an easement shall exist for the continuance of such

encroachment of the common elements upon any unit for as long as such encroachment shall naturally exist.

5. Perpetual easements are reserved over and upon all of the common elements of the condominium for the purpose of non-exclusive use and ingress and egress of the Developer, its agents, guests, designs, successors and assigns for the purpose of maintaining and repairing condominium property facilities.

19. Termination. Notwithstanding anything to the contrary contained in this Declaration, in the event of fire or other casualty or disaster which shall totally demolish the condominium, or which shall destroy the condominium so as to require more than two-thirds (2/3) of said buildings and improvements, as determined by the board of directors of the association, to be reconstructed, then this Declaration of Condominium and the plan of condominium ownership established herein shall terminate, unless seventy percent (70%) of all owners of units agree that said condominium be reconstructed, or unless any policy of casualty insurance which may cover the damage or destruction of said buildings require the reconstruction thereof as a condition precedent to the payment of insurance proceeds under such policy, notwithstanding the fact that the owners of seventy percent (70%) of all units agree not to reconstruct said building. If such policy of casualty insurance requires the same to be reconstructed, this Declaration of Condominium and the plan of condominium ownership established herein shall still be terminated if there exists any regulation or order of any governmental authority having jurisdiction of the property which may then prevent the reconstruction of said condominium, although nothing herein contained shall be construed as releasing or in any manner changing any obligation which may be owed to

the association, for itself and for the benefit of the owners of all units, under any insurance policy then existing.

If, as above provided, this Declaration of Condominium and the plan of condominium ownership established herein is to be terminated, then a certificate of resolution of the board of directors of the association to said effect, and notice to the cancellation and termination hereof, shall be executed by the president and secretary of the association in recordable form and such instrument shall be recorded in the Public Records of Madison County, Alabama. Upon termination of this Declaration of Condominium and the plat of condominium ownership established herein, all of the owners of units shall be and become tenants in common as to ownership of the real property herein described, and then remaining improvements thereon. The undivided interest in such real property and remaining improvements held by the owner of each unit shall be the same as the undivided interest in common elements which was formerly appurtenant to such unit, and the lien of any mortgage or other encumbrance upon each unit shall attach to the percentage of undivided interest of the owner of a unit in the property and then terminating improvements as above provided. Upon termination of this Declaration of Condominium the plat of condominium ownership established herein, the owners of all units still inhabitable shall, within sixty (60) days from the date of recording of said certificate of resolution, deliver possession of their respective units to the association. Upon such delivery of possession, the owners of usable units and their respective mortgagees as their interest may appear, shall become entitled to participate proportionately together with all owners of usable units in the distribution of the proceeds in the possession of the insurance trustee. Upon termination of this Declaration

of Condominium and the plan of condominium ownership established herein, the insurance trustee shall distribute any insurance indemnity which may be due under any policy of casualty insurance to the owners of the units and their mortgagees, as their respective interests may appear, such distribution to be made to the owner of each unit in accordance with his then undivided interest in the real property and remaining improvements as herein provided. The assets of the association upon termination of the plan of condominium ownership created hereby shall then be distributed to the owner of each unit and his mortgagee, as their respective interest may appear, in the same manner as was above provided for the distribution of any final insurance indemnity.

Except in the event of this Declaration of Condominium and the plan of condominium ownership established herein being terminated as herein provided, this Declaration of Condominium and said plan of condominium ownership may only be otherwise terminated by the unanimous consent of all owners of all units and all parties holding mortgages, liens or other encumbrances against any of the said units, in which event, the termination of the condominium shall be by such plans as may be then adopted by said owners and parties holding any mortgages, liens or other encumbrances. Such election to terminate this Declaration of Condominium and the plans of condominium ownership established herein shall be executed in writing by all of the aforementioned parties, and such instrument shall be recorded in the Public Records of Madison County, Alabama.

20. Severability. If any paragraph, sentence, clause or a portion thereof of any provision of this Declaration or of the Articles of

Incorporation of the MISSION SQUARE CONDOMINIUM ASSOCIATION, INC., or of the By-Laws of that Association, shall be held invalid, it shall not affect the validity of the remaining parts thereof of the remaining instrument.

MISSION SQUARE DEVELOPMENT CO., INC.

BY:   
Its President

ATTEST:

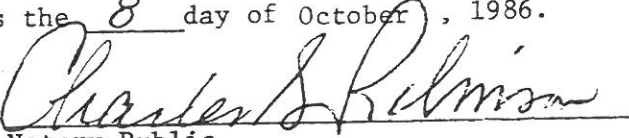
  
Its Secretary

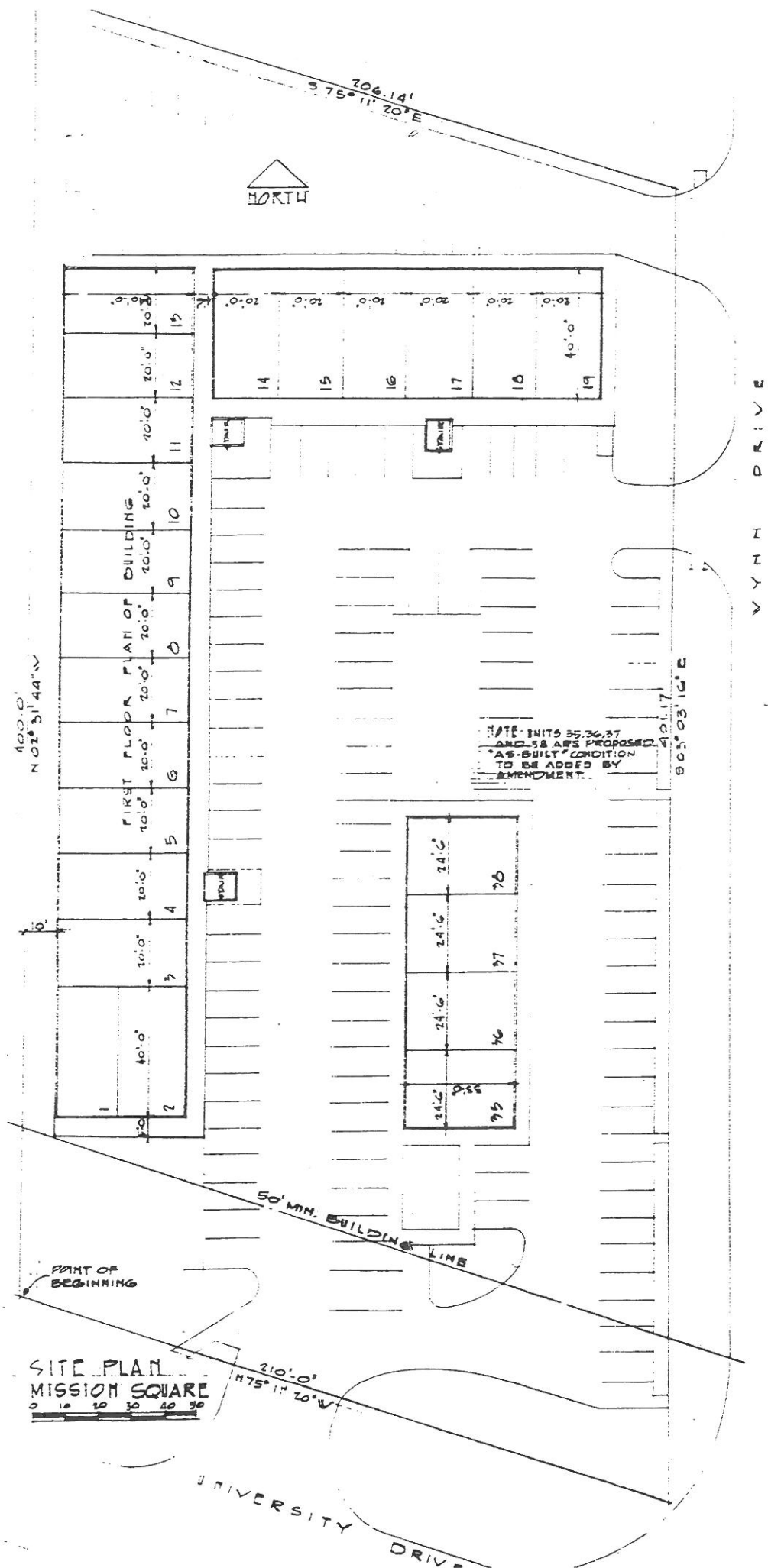
STATE OF ALABAMA

COUNTY OF

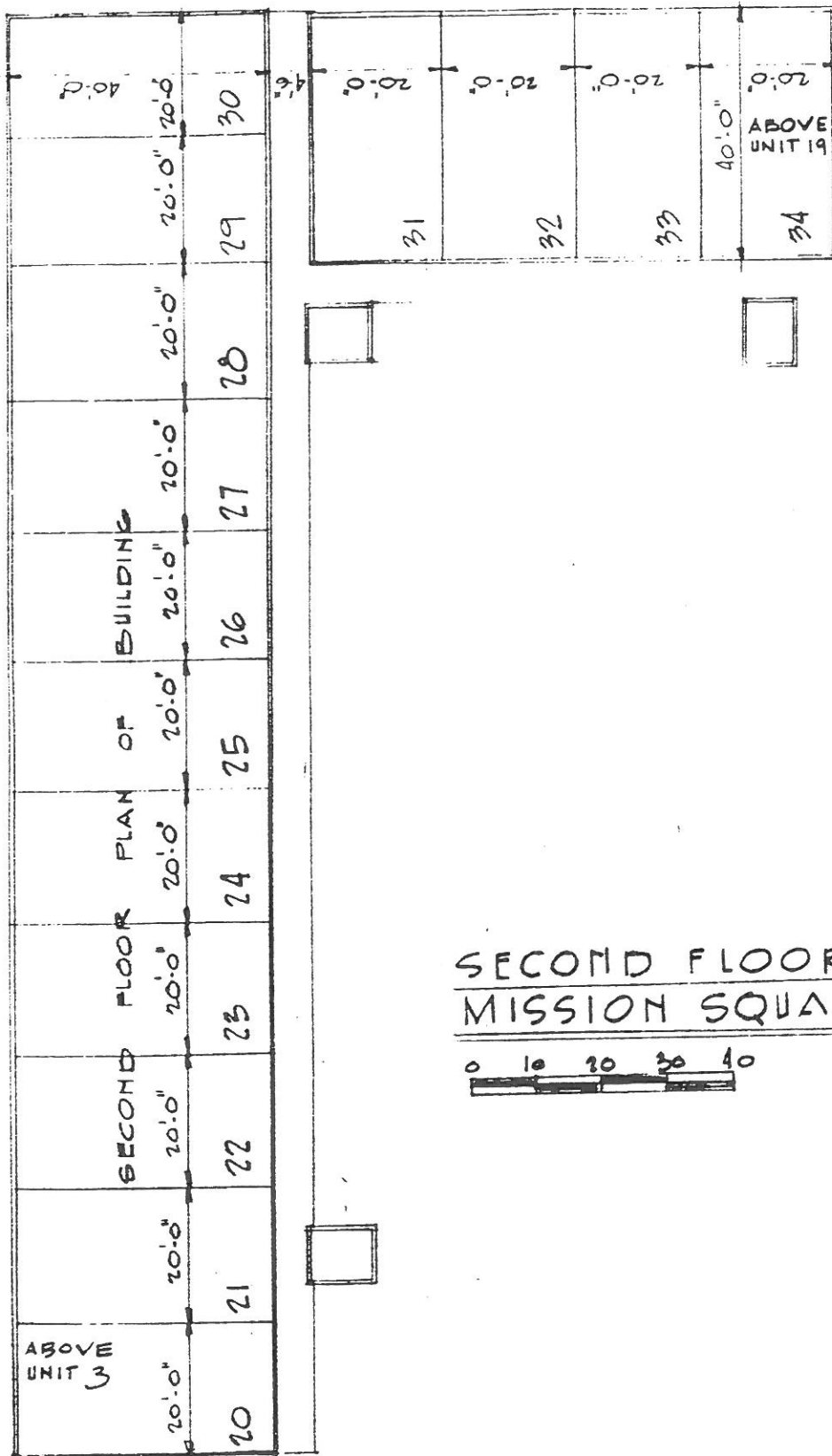
Before me, the undersigned a Notary Public personally appeared, Elmer L. Cook, II, whose name is signed to the foregoing Declaration of Condominium, as President of Mission Square Development Co., Inc., and who is known to me, acknowledged before me, that being informed of the contents of the Declaration of Condominium he executed the same voluntarily on the day the same bears date.

GIVEN under my hand and seal this the 8 day of October, 1986.

  
Notary Public  
My Commission Expires: 11-14-88







APPROVAL OF MORTGAGEE

The undersigned, FIRST ALABAMA BANK, an Alabama Banking Corporation, is the mortgagee for the real property described in Paragraph 2 of the declaration, and does hereby grant its express approval of the foregoing Declaration of Condominium of MISSION SQUARE.

This the 8<sup>th</sup> day of October, 1986.

FIRST ALABAMA BANK

BY: Andrew J. Tutt  
Its: A.V.P.

ATTEST:

BY: Steve Monger  
Its: President

STATE OF ALABAMA

COUNTY OF MADISON

I, the undersigned, a Notary Public, in and for said County and State, hereby certify that Andrew J. Tutt and Steve Monger, whose names are signed as Executive Vice President and President of First Alabama Bank, are signed to the foregoing Approval of Mortgagee, and who are known to me, acknowledged before me on this day that being informed of the contents of the Declaration and the approval, they, as such officers, and with full authority, executed the same voluntarily for and as the act of said corporation.

GIVEN under my hand and official seal this 8th day of October, 1986.

Imogene W. Watter  
Notary Public  
My Commission Expires: MY COMMISSION EXPIRES 5-31-88

ARTICLES OF INCORPORATION  
OF

MISSION SQUARE CONDOMINIUM ASSOCIATION, INC.

(A Corporation not for profit)

We, the undersigned natural persons acting as incorporators of a corporation under the Alabama Non-Profit Corporation Act (Section 10-3-1, 1975 Code of Alabama), and the Condominium Ownership Act (Section 35-8-1, 1975 Code of Alabama), adopt the following Articles of Incorporation for such corporations:

I

NAME

The name of the corporation shall be MISSION SQUARE CONDOMINIUM ASSOCIATION, INC.

II

PERIOD OF DURATION

The period of its duration is perpetual unless and until hereafter lawfully dissolved.

III

PURPOSE AND POWERS

This association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for the maintenance, preservation and architectural control of the units and the common areas and facilities within that certain condominium known as MISSION SQUARE CONDOMINIUM, and to promote the health, safety and welfare of the residents within said condominium, and for these purposes to:

1. Exercise all of the powers and privileges and perform all of the duties and obligations of an association of unit owners as provided in the Condominium Ownership Act of Alabama, and as set forth in that certain Declaration applicable to the property and recorded or to be recorded in the Office of the Judge of Probate of Madison County, Alabama, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if herein set forth at large and at length.

STATE OF ALA. MADISON CO.  
I CERTIFY THIS INSTRUMENT  
WAS FILED ON

OCT 10 9 43 AM '86

2. Fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; pay all expenses in connection therewith and all office or other expenses incident to the conduct of the business of the association.
3. Acquire (by give, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer dedicate for public use, or otherwise dispose of real or personal property in connection with the affairs of the association.
4. Borrow money and, with the assent of a majority of votes entitled to be case at a meeting of the association, mortgage, pledge or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.
5. Maintain the above mentioned condominium, and all improvements located thereon, make payments of taxes, insurance, repairs, and any other expenses necessary to maintenance of said property as a condominium, and pay operating expenses of every kind and character whatsoever, and any other expenses necessary therefor, or beautify and make other desirable improvements from time to time as this corporation may deem best.
6. Transact all business being not for profit consistent with the purposes for which the corporation is organized, and the proceeds of all operations of the corporation to remain with the corporation, to be used in the payment of all indebtedness that may be incurred by the corporation and for such other purposes as may be lawful.
7. exercise all of the authorities and powers given and granted to an association of apartment owners under and pursuant to the provisions of the Condominium Ownership Act of Alabama, which a corporation organized under the Non-Profit Corporation Law of the State of Alabama by law may nor or hereafter have or exercise.

#### IV

##### MEMBERSHIP

This corporation shall issue no shares of stock of any kind or nature whatsoever. Every person or entity who is a record owner of a fee or undivided fee interest in any unit in MISSION SQUARE, a condominium, shall be a member of the Association. The members shall enjoy such qualifications, rights and voting rights as may be fixed in the Declaration of MISSION SQUARE, a condominium, and in the By-Laws of the Corporation.

#### V

##### REGISTERED AGENT

The address of the initial registered office of the corporation is 2322 Pansy Street, Huntsville, Alabama, as the name of its initial registered agent at such address is A. Wayne Wilson.

## VI

### BOARD OF DIRECTORS

The number of Directors constituting the initial Board of Directors of the corporation is three (3), and the names and addresses of the persons who are to serve as the initial Directors are:

A. WAYNE WILSON	804 Mullins Hill Dr. Huntsville, Alabama 35802
ELMER L. COOK II	No. 4 Muscogee Lane Destin, Florida 32541
VANDIVER H. CARTER	P.O. Box 685 Selma, Alabama 36702

## VII

### INCORPORATORS

The name and address of each initial incorporator of the corporation is as follows:

A. WAYNE WILSON	804 Mullins Hill Dr. Huntsville, Alabama 35802
ELMER L. COOK II	No. 4 Muscogee Lane Destin, Florida 32541
VANDIVER H. CARTER	P.O. Box 685 Selma, Alabama 36702

## VIII

### DISSOLUTION

The corporation is not organized for pecuniary profit and no part of its net earnings shall inure to the benefit of any member, Director or individual. The Corporation shall be dissolved upon the termination of the condominium in the manner provided by the Law of Alabama. Upon dissolution of the corporation, the assets of the corporation, if any and of all money received by the corporation from its operations, after the payment in full of all debts and obligations of the corporation of whatsoever kind and nature, shall be used and distributed solely and exclusively in the manner provided by the Condominium Ownership Act of Alabama.

IN WITNESS WHEREOF, the subscribers hereto have hereunto set their hands and seals, this the 8 day of OCT., 1986, in Madison County, Alabama.

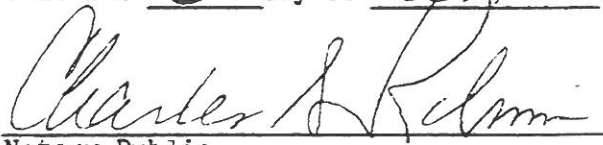
  
A. Wayne Wilson

STATE OF ALABAMA

COUNTY OF MADISON

Before me, Charles G. Robinson, a notary public, in and for said County and State, personally appeared A. WAYNE WILSON, being known to me and who, being by me first duly sworn, deposes and says that he is one of the initial incorporators of MISSION SQUARE CONDOMINIUM ASSOCIATION, INC., that he is authorized to make this verification on behalf of the initial subscribers of the corporation, and that the facts contained in the above and foregoing declaration are true and correct.

GIVEN under my hand and seal, this the 8 day of OCT., 1986.

  
Notary Public  
My Commission Expires: 11-14-88

THIS INSTRUMENT PREPARED BY:  
Charles G. Robinson  
229 East Side Square  
Huntsville, Alabama 35801  
205/533-5500

STATE OF ALABAMA  
MADISON COUNTY

OFFICE OF THE JUDGE OF PROBATE

CERTIFICATE OF INCORPORATION

OF

Mission Square Condominium Association, Inc.

I, the undersigned, Judge of Probate, Madison County, Alabama  
here certify that Articles of Incorporation for the incorporation  
of Mission Square Condominium Association, Inc.  
duly signed pursuant to the provisions of the Code of Alabama, have  
been received in this office and found to conform to law and that  
the name of the corporation is now reserved with the Secretary of State  
of Alabama under reservation No. \_\_\_\_\_ dated \_\_\_\_\_.

ACCORDINGLY, the undersigned, as such Judge of Probate, and by  
virtue of the authority vested in me by law, hereby issue this  
Certificate of Incorporation of Mission Square Condominium  
Association, Inc. and attach hereto a  
certified copy of the Articles of Incorporation.

Dated October 8, 19 86.

Frank H. Redick  
2 Judge of Probate

STATE OF ALABAMA  
MADISON COUNTY

I, Frank H. Riddick, Judge of Probate in and for the County and State aforesaid, hereby certify that the within and foregoing is a true, correct and complete copy of Articles of Incorporation of *Mission Spring Condominium Association, Inc.* as same appears of record in my office.

Given under my hand and seal of office this the 10<sup>th</sup> day of October, 1986.

Frank H. Riddick  
JUDGE OF PROBATE



2-817

STATE OF ALABAMA  
COUNTY OF MADISON  
RECORDED IN INSTRUMENT

JUL 16 9 55 AM '86

BY-LAWS  
OF  
MISSION SQUARE CONDOMINIUM ASSOCIATION, INC.  
A NON-PROFIT CORPORATION

ARTICLE I - PLAN OF OWNERSHIP

SECTION 1. UNIT OWNERSHIP. The subject property which is located in Huntsville, Alabama, (hereinafter called the "Property") and is more particularly described in the Declaration of Condominium dated OCT. 8, 1986, 1986, and recorded in the Office of the Judge of Probate of Madison County, Alabama, in Condominium Book 2, Page 795, and has been submitted pursuant to the provision of the Condominium Ownership Act of the State of Alabama, Act No. 1059 of the 1973 Session of the Legislature of the State of Alabama, presently codified in the Code of Alabama, 1975 as Section 35-8-1 (hereinafter called the "Condominium Ownership Act") by MISSION SQUARE DEVELOPMENT CO., INC., an Alabama Corporation, (hereinafter called the "Developer". The Condominium thereby created shall be known as MISSION SQUARE (hereinafter called the "Condominium").

SECTION 2. APPLICABILITY OF BY-LAWS. The provisions of these By-Laws are applicable to the Property of the Condominium and to the use and occupancy thereof. The term "Property" as used herein shall include the land, the buildings and all other improvements thereon (including the units ("Units"), common areas and facilities ("Common Elements") owned in fee simple, absolute, and all easements, rights and appurtenances belonging thereto, and all other property, personal or mixed, intended for use in connection therewith, all of which are intended to be submitted to the provision of said Condominium Ownership Act. The provisions of these By-Laws shall automatically become applicable to Property which may be added to the Condominium upon the recording of an amendment to the Declaration submitting such additional Property to the provisions of the Condominium Ownership Act.

SECTION 3. APPLICATION. All present and future owners, mortgagees, lessees and occupants of Units and their employees, and all other persons who may use the facilities of the Property in any manner are subject to these By-Laws, and Declaration, the Rules and Regulations of all covenants, agreements, restrictions, easements and declarations of record ("title conditions"). The acceptance of a deed of conveyance or the entering into of a lease of the act of occupancy of a Unit shall constitute an agreement that these By-Laws, the Rules and Regulations, the provisions of the Declaration, as they may be amended from time to time, and the title conditions are accepted, ratified, and will be complied with.

SECTION 4. MEMBERSHIP IN THE ASSOCIATION: VOTING RIGHTS. Membership in the association shall be restricted to all of the record owners of the units in MISSION SQUARE. Purchaser shall become a member of the association automatically upon the completion of closing of the purchase of a unit in MISSION SQUARE.

On all matters upon which the membership shall be entitled to vote, each member shall be entitled to one vote for each unit owned in MISSION SQUARE, which vote may be exercised or cast by the owner of each unit in the manner provided in the By-Laws adopted by the association and applicable provisions of the Alabama Statute.

## ARTICLE II - BOARD OF DIRECTORS

SECTION 1. NUMBER AND TERM. The Board of Directors shall consist of not less than three (3) nor more than nine (9) members, who shall be designated initially by the Developer. All Directors must be Unit Owners. The terms of the members of the Board of Directors shall expire annually. In any event, however, each Director shall hold office until such time as his successor has been elected or designated.

SECTION 2. POWERS AND DUTIES. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Condominium and may do all such acts and things except as by law or by the Declaration or by these By-Laws may not be delegated to the Board of Directors by the Unit Owners. Such powers and duties of the Board of Directors shall include, but shall not be limited to, the following:

(a) Operation, care, upkeep and maintenance of the Common Elements.

(b) Determination of the Common Expenses required for the affairs of the Condominium, including, without limitation, the operation and maintenance of the Property.

(c) Collection of the common Expenses from the Unit Owners.

(d) Employment and dismissal of the personnel necessary or advisable for the maintenance and operation of the Common Elements.

(e) Adoption and amendment of rules and regulations covering the details of the operation and use of the Property.

(f) Opening of bank accounts on behalf of the Condominium and designating the signatories required therefor.

(g) Leasing, managing and otherwise dealing with such common facilities as may be provided for in the Declaration as being common areas and facilities (the "Common Elements").

(h) Owning, conveying, encumbering, leasing and otherwise dealing with Units conveyed to it or purchased by it as the result of enforcement of the lien from Common Expenses.

(i) Obtaining of insurance for the Property, including the Units, pursuant to the provisions of Article VI, Section 7 hereof.

(j) Making of repairs, additions, and improvements to, or alterations of, the Property and repairs, to and restoration of the Property in accordance with the other provisions of these By-Laws.

SECTION 3. FIRST BOARD OF DIRECTORS. The first Board of Directors shall be designated by the Developer and shall consist of three (3) Directors, each of whom shall serve until replaced by Developer or replaced by election as hereinafter described:

(a) When unit owners other than the Developer own fifteen percent (15%) or more of the units within the condominium, the unit owners other than the Developer shall be entitled to elect not less than one-third (1/3) of the members of the Board of Directors of the Association. Unit owners other than the Developer shall be entitled to elect not less than a majority of the members of the Board of Directors of the association three (3) years after sales by the Developer have been closed on fifty percent (50%) of the units within this condominium, within three (3) months after sales have been closed by the Developer or ninety percent (90%) of the units within the condominium, or when all of the units within the condominium have been completed, some of them have been sold and none of the others are being offered for sale by the Developer in the ordinary course of business, whichever of the foregoing events shall first occur. The Developer shall be entitled to elect not less than one (1) member of the Board of Directors of the association so long as the Developer holds for sale in the ordinary course of business, five percent (5%) of the units within the condominium.

(b) Within sixty (60) days after unit owners other than the Developer are entitled to elect a member or members of the Board of Directors of the Association, the Association shall call and give not less than thirty (30) days' nor more than forty (40) days' notice of a meeting of the unit owners for this purpose. Such meeting may be called and the notice given by any unit owner if the Association fails to do so.

(c) If the Developer holds units for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by the Developer:

(i) Assessment of the Developer as a unit owner for capital improvements or for regular, monthly condominium assessments for common expenses.

(ii) Any action by the Association that would be detrimental to the sale of units by the Developer; however, an increase in assessments for common expenses without discrimination against the Developer shall not be deemed detrimental to the sales of units.

(d) Whenever the Developer shall be entitled to designate and select any person to serve on any board of directors of the association, the manner in which such person shall be designated shall be as provided in the Articles of Incorporation and/or the By-Laws of the Association, and the Developer shall have the right to remove any person selected by it to act and serve on said Board of Directors and to replace such person with another person to act and serve in the place of any director so removed for the remainder of the unexpired term of any director so removed. The election of a board of directors by the unit owners may be accelerated by Developer's discretion, upon giving twenty (20) days' written notice of the same to all unit owners.

SECTION 4. REMOVAL. The Directors may be removed, either with or without cause, by an affirmative vote of majority of the votes eligible to be cast by Unit Owners in person or by proxy at a meeting of Unit Owners duly held for such purpose.

SECTION 5. VACANCIES. Vacancies in the Board of Directors caused by any reason other than the removal of a member thereof by a vote of the Unit Owners shall be filled by vote of a majority of the remaining members at a special meeting of the Board of Directors held for that purpose promptly after the occurrence of any such vacancy, even though the members present at such meeting may constitute less than a quorum and each person so elected shall be a member of the Board of Directors for the remainder of the term and until a successor shall be elected at the next annual meeting of the Unit Owners.

SECTION 6. ORGANIZATIONAL MEETING. The first meeting of the members of the Board of Directors following the annual meeting of the Unit Owners shall be held within ten days thereafter, at such time and place as shall be fixed by the Unit Owners at the meeting at which such Board of Directors shall have been elected, and no notice shall be necessary to the newly elected members of the Board of Directors in order legally to constitute such meeting, providing a majority of the Board of Directors shall be present.

SECTION 7. REGULAR MEETINGS. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by the Board. The Board shall meet within ten (10) days after each annual meeting of the members.

SECTION 8. SPECIAL MEETINGS. Special meetings of the Board of Directors may be called by the President on three business days' notice to each member of the Board of Directors, given by mail or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least two members of the Board of Directors.

SECTION 9. WAIVER OF NOTICE. Any member of the Board of Directors may at any time waive notice of any meeting of the Board of Directors in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board of Directors at any meeting of the Board shall constitute a waiver of notice by him of the time and place thereof. If all members of the Board of Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

SECTION 10. QUORUM OF BOARD OF DIRECTORS. At all meetings of the Board of Directors, a majority of the members thereof shall constitute a quorum for the transaction of business, and the votes of a majority of the members of the Board of Directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum

(i) not less than 66 2/3% of the entire membership of the board of directors and by not less than 51% of the votes of the entire membership of the association; or

(ii) by not less than 75% of the votes of the entire membership of the association; or

(iii) until the first election of directors, by all of the directors.

We, the undersigned, being the Board of Directors of the Corporation, have hereby adopted these By-Laws on this 18 day of OCT., 1986.

A. Wayne Wilson  
A. Wayne Wilson

Elmer L. Cook, II  
Elmer L. Cook, II

Vandiver H. Carter  
Vandiver H. Carter

The By-Laws have also been approved by the owner of all of the property located within the Condominium.

MISSION SQUARE DEVELOPMENT CO., INC.

Elmer L. Cook, II  
Its: PRES.

ATTEST:

A. Wayne Wilson  
Its: Sec



other things, shall contain the amount of each assessment of Common Expenses against such Unit, the date when due, the amounts paid thereon, and the balance remaining unpaid. An annual report of the receipts and expenditures of the Condominium shall be rendered by the Board of Directors to all Unit Owners within ninety days after the end of each fiscal year. Copies of accounting records, the Declaration, these By-Laws, Rules and Regulations, and floor plans of the Buildings and Units, as the same may be amended from time to time, shall be maintained at the Office of the Board of Directors and shall be available for inspection by Unit Owners and their authorized agents during reasonable business hours.

#### ARTICLE XI - MISCELLANEOUS

SECTION 1. INVALIDITY. The invalidity of any part of these By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these By-Laws.

SECTION 2. CAPTIONS. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these By-Laws, or the intent of any provision thereof.

SECTION 3. GENDER. The use of the masculine gender in these By-Laws shall be deemed to include the feminine gender and the use of the singular shall be deemed to include the plural, whenever the context so requires.

SECTION 4. WAIVER. No restriction, condition, obligation, or provision contained in these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

SECTION 5. SIGNS. No sign, advertisement, notice, plaque or other communication of any description shall be placed on the exterior of any Unit, Common Element or Limited Common Element, nor shall any "For Sale," "For Rent," or "For Lease" signs or other window displays or advertising be maintained or permitted on any part of the Condominium Property without the prior written approval of the Board of Directors.

#### ARTICLE XII - AMENDMENTS TO BY-LAWS

SECTION 1. AMENDMENTS TO BY-LAWS. These By-Laws may be amended in the following manner:

(a) Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.

(b) A resolution adopting a proposed amendment may be proposed by either the Board of Directors of the association or by the members of the association. Directors and members not present in person or by proxy at a meeting considering the amendment may express their approval in writing, providing such approval is delivered to the secretary at or prior to the meeting. Except as elsewhere provided, such approval must be either by:

is present, any business which might have been transacted at the meeting originally called, may be transacted without further notice.

SECTION 11. FIDELITY BONDS. The Board of Directors may, but shall not be required to, obtain adequate fidelity bonds for all officers and employees of the Condominium handling or responsible for Condominium funds. The premium on such bonds, if any, shall constitute a Common Expense.

SECTION 12. COMPENSATION. No member of the Board of Directors shall receive any compensation from the Condominium for acting as such. A member shall be entitled to reimbursement for approved expenses incurred or spent for the corporation.

SECTION 13. LIABILITY OF THE BOARD OF DIRECTORS. The members of the Board of Directors shall not be liable to the Unit Owners for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The Unit Owners shall indemnify and hold harmless each of the members of the Board of Directors against all contractual liability to others arising out of the contracts made by the Board of Directors on behalf of the Condominium unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of these By-Laws. It is intended that the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Condominium. It is intended that the liability of any Unit Owner arising out of any contract made by the Board of Directors or out of the aforesaid indemnity in favor of the members of the Board of Directors shall be limited to such proportion of the total liability thereunder as his interest in the Common Elements bears to the interest of all the Unit Owners in the Common Elements. Every agreement made by the Board of Directors or by the managing agent or by the manager on behalf of the Condominium shall provide that the members of the Board of Directors, or the managing agent, or the manager, as the case may be, are acting only as agent for the Unit Owners and shall have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his interest in the Common Elements bears to the interest of all Unit Owners in the Common Elements.

### ARTICLE III - UNIT OWNERS

SECTION 1. ANNUAL MEETINGS. The annual members meeting shall be held at the Office of the corporation on the third Saturday in the month of September of each year for the purpose of electing directors and transacting any other business authorized to be transacted by the members; provided, however, that if that day is a legal holiday, the meeting shall be held on the next day that is not a holiday.

SECTION 2. SPECIAL MEETINGS. Special meetings of the Unit Owners may be called by the President. Also it shall be the duty of the President to call a special meeting of the Unit Owners as directed by the Board of Directors or upon a petition signed by Unit Owners possessing not less than one-third of the total authorized votes having been presented to the Secretary.

SECTION 3. NOTICE OF MEETING. It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the time and place where it is to be held, and, in the case of a special meeting, the purpose or purposes for which the meeting is called, to each Unit Owner of record, at least ten but not more than thirty days prior to such meeting. The mailing of a notice in the manner provided in these By-Laws shall be considered notice served.

#### ARTICLE IV - OFFICERS

SECTION 1. DESIGNATION. The principal officers of the Condominium shall be the President, the Vice President, and the Secretary-Treasurer, all of whom shall be elected by the Board of Directors.

SECTION 2. ELECTION OF OFFICERS. The Officers of the Condominium shall be elected annually by the Board of Directors at the organizational meeting of each new Board of Directors and shall hold office at the pleasure of the Board of Directors and until their successors are elected.

SECTION 3. REMOVAL OF OFFICERS. Upon the affirmative vote of a majority of the members of the Board of Directors, any such officer may be removed, either with or without cause, and his successors may be elected at any regular meeting of the Board of Directors, or any special meeting of the Board of Directors called for such purpose.

SECTION 4. PRESIDENT. The President shall be the chief executive officer of the Condominium. He shall preside at all meetings of the Unit Owners and of the Board of Directors. He shall have all of the general powers and duties which are incident to the office of the President of a stock corporation organized under the Business Corporation Law of the State of Alabama, including but not limited to the power to appoint committees from among the Unit Owners from time to time as he may in his discretion decide are appropriate to assist in the conduct of the affairs of the Condominium.

SECTION 5. VICE PRESIDENT. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board of Directors to act in the place of the President, on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors or by the President.

SECTION 6. SECRETARY. The Secretary shall keep the minutes of all meetings of the Unit Owners and of the Board of Directors; shall have charge of such books and papers as the Board of Directors may direct; and shall in general, perform, all the duties incident to the office of the Secretary of a stock corporation organized under the Business Corporation Law of the State of Alabama. The Secretary shall also serve as the Treasurer.

SECTION 7. TREASURER. The Treasurer shall have the responsibility for Condominium funds and securities and shall be responsible for financial



records and books of account showing all receipts and disbursements and for all other required financial data. He shall be responsible for the deposit of all monies and other valuable effects in the name of the Board of Directors, or the managing agent, in such depositories as may from time to time be designated by the Board of Directors, and he shall, in general, perform all the duties incident to the office of the Treasurer of a stock corporation organized under the Business Corporation Law of the State of Alabama.

SECTION 8. AGREEMENTS, CONTRACTS, DEEDS, ETC. All agreements, contracts, deeds, leases and other instruments of the Condominium shall be executed by any two officers of the Condominium or by such other person or persons as may be designated by the Board of Directors.

SECTION 9. COMPENSATION OF OFFICERS. No officer shall receive any compensation from the Condominium for acting as such.

#### ARTICLE V - NOTICES

SECTION 1. DEFINITION. Whenever under the provisions of the Declaration or of these By-Laws, notice is required to be given to the Board of Directors, any manager or Unit Owner, it shall not be construed to mean personal notice; but such notice may be given in writing, by mail, by depositing the same in a post office or letter box, in a postpaid sealed wrapper, addressed to the Board of Directors, such manager or Unit Owner at such address as appears on the books of the Condominium. Notice shall be deemed given as of the date of mailing.

SECTION 2. SERVICE OF NOTICE - WAIVER. Whenever any notice is required to be given under the provisions of the Declaration, or law, or of these By-Laws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

#### ARTICLE VI - OPERATION OF THE PROPERTY

SECTION 1. DETERMINATION OF COMMON EXPENSES. The Board of Directors shall from time to time, and at least annually, prepare a budget for the Condominium, determine the amount of the Common Expenses payable by the Unit Owners in accordance with their ownership. The Common Expenses shall include, among other things, the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board of Directors pursuant to the provisions of Section 7 of this Article VI. The Common Expenses may also include such amounts as the Board of Directors may deem proper for the operation and maintenance of the Property, including, without limitation, an amount for working capital of the Condominium, for a general operating reserve, for a reserve fund for

replacements, and to make up any deficit in the Common Expenses for any prior year. The Board of Directors shall advise all Unit Owners, promptly in writing, of the amount of the Common Expenses payable by each of them, respectively, as determined by the Board of Directors, as aforesaid and shall furnish copies of each budget on which such Common Expenses are based, to all Unit Owners.

SECTION 2. PAYMENT OF COMMON EXPENSES. All Unit Owners shall be obligated to pay the Common Expenses assessed by the Board of Directors pursuant to the provisions of Section 1 of this Article VI in advance at such time or times as the Board of Directors shall determine.

No unit owner shall be liable for the payment of any part of the Common Expenses assessed against his Unit subsequent to a sale, transfer or other conveyance by him of such Unit. A purchaser of a Unit shall be liable for the payment of Common Expenses assessed and unpaid against such Unit prior to the acquisition by him of such Unit, except that a mortgagee or other purchaser of a Unit at a foreclosure sale of such Unit shall not be liable for, and such Unit shall not be subject to, a lien for the payment of Common Expenses assessed prior to the foreclosure sale.

SECTION 3. COLLECTION OF ASSESSMENTS. The Board of Directors shall assess Common Expenses against the Unit Owners from time to time (at least annually) and shall take prompt action to collect any Common Expenses due from any Unit Owner which remains unpaid for more than thirty days from the due date for payment thereof.

SECTION 4. DEFAULT IN PAYMENT OF COMMON EXPENSES. In the event of default by a Unit Owner in paying to the Board of Directors the Common Expenses as determined by the Board of Directors such Unit Owner shall be obligated to pay interest at the maximum legal rate on such Common Expenses from the due date thereof, together with all expenses, including attorney's fees, incurred by the Board of Directors in any proceeding brought to collect such unpaid Common Expenses. The Board of Directors shall have the right and duty to attempt to recover such Common Expenses, together with interest thereon, and the expenses of the proceeding, including attorney's fees in an action to recover the same brought against such Unit Owner, or by foreclosure of the lien on such Unit as provided in Section 17, of the Condominium Ownership Act.

SECTION 5. FORECLOSURE OF LIENS FOR UNPAID COMMON EXPENSES. In any action brought by the Board of Directors to foreclose a lien on a Unit because of unpaid Common Expenses, the Unit Owner shall be required to pay a reasonable rental for the use of his Unit and the Plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Board of Directors, acting on behalf of all Unit Owners, shall have power to purchase such Unit at the foreclosure sale and to acquire, hold, lease, mortgage (but not vote the votes appurtenant to), convey or otherwise deal with the same. A suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosing or waiving the lien securing the same.

SECTION 6. STATEMENT OF COMMON EXPENSES. The Board of Directors shall promptly provide any Unit Owner so requesting the same in writing,

with a written statement of all unpaid Common Expenses due from such unit owner.

SECTION 7. INSURANCE. The Board of Directors shall be required to obtain and maintain the following insurance: (a) fire insurance with extended coverage insuring the Buildings containing the Units (but not including drapes, wallcovering, fixtures, furniture, furnishings or other personal property supplied or installed by Unit Owners and further not including any betterments and improvements to the Unit over and above the allowances specified in the Condominium Presentation), and covering the interests of the Condominium, the Board of Directors and all Unit Owners and their mortgagees, as their interests may appear, in the amount determined by the Board of Directors, each of which policies shall contain a standard mortgagee clause in favor of each mortgagee of a Unit which shall provide that the loss, if any, thereunder shall be payable to such mortgagee, as its interest may appear, subject however, to the loss payment provisions in favor of the Board of Directors; (b) workman's compensation insurance; (c) public liability insurance in such amounts and with such coverage as the Board of Directors shall from time to time determine, but at least covering each member of the Board of Directors, each Unit Owner and with cross liability endorsement to cover liabilities of the Unit Owners as a group to a Unit Owner; and (d) such other insurance as the Board of Directors may determine. All such policies shall provide that adjustment of loss shall be made by the Board of Directors and that the net proceeds thereof shall be payable to the Board of Directors.

It shall be the responsibility of each Unit Owner to provide insurance for his or her benefit for loss or damage to his wallcoverings, fixtures, furniture, furnishings and other personal property contained in his Unit and all betterments and improvements to the Unit over and above the allowances specified in the Condominium Presentation and against injuries sustained as a result of accidents occurring within his Unit, provided that all such policies shall contain waivers of subrogation and further provided that the liability of the carriers issuing insurance obtained by the Board of Directors shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner.

SECTION 8. REPAIR OR RECONSTRUCTION AFTER FIRE OR OTHER CASUALTY. In the event of damage to or destruction of the building or buildings containing the Units as a result of fire or other casualty, the Board of Directors shall arrange for the prompt repair and restoration of the Buildings containing the Units (including any damaged Units, but not including any wall decorations or coverings or other furniture, furnishings, fixtures, equipment, or betterments or improvements, over and above the allowances specified in the Condominium Presentation, installed in the Units), and the Board of Directors shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. Any cost of such repair in restoration in excess of the insurance proceeds shall constitute a common expense and the Board of Directors may access all of the Unit Owners for such deficit as part of the Common Expenses.

SECTION 9. MAINTENANCE AND REPAIRS. The responsibility for the maintenance of the condominium property and restrictions upon its alterations and improvements shall be as follows:

A. By the Association: The association shall maintain, repair and replace at the association's own expense:

(1) All Common Elements.

(2) All air-conditioning and heating systems and equipment other than items providing service to an individual condominium unit.

(3) All portions of the unit (except interior wall surfaces) contributing to the support of the building, which portions shall include, but not be limited to, the outside walls of the building, and load-bearing columns, but excluding interior non-bearing walls.

(4) All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services or fire protection which are contained in the portions of the unit contributing to the support of the building or within interior boundary walls, and all such facilities contained within a unit which service part or parts of the condominium other than the unit within which contained.

(5) All incidental damage caused to a unit by such work shall be promptly repaired at the expense of the association.

B. By the condominium parcel owner: The responsibility of the condominium parcel owner shall be as follows:

(1) To maintain, repair and replace at his expense, all portions of the unit except the portions to be maintained, repaired and replaced by the association. Included within the responsibility of the unit owner shall be windows, screens and doors opening into or onto his unit, sliding glass doors and plate glass. All such maintenance, repairs and replacement shall be done without disturbing the rights or other unit owners.

(2) Within the unit, to maintain, repair and replace at his expense, all fans and air conditioning and heating equipment, light, power, telephone, sewage, and sanitary service to his condominium unit. The unit floors and interior walls shall be maintained by the condominium unit owner thereof at his own expense.

(3) Not to paint or otherwise decorate or change the appearance of any portion of the exterior of the building.

(4) To promptly report to the association any defects or need for repairs, the responsibility for the remedy of which is that of the association.

(5) No condominium parcel owner other than the Developer shall make any alterations in the portions of the building which are to be



maintained by the association or remove any portion thereof or make any addition thereto or do any work which would jeopardize the safety or soundness of the building or impair any easement without first obtaining approval from the board of directors of the association.

C. Alteration and Improvement: There shall be no material alterations or substantial additions to common elements, except as the same are authorized by the Board of Directors and ratified by the affirmative vote of voting members casting not less than seventy-five (75) percent of the total votes of the members of the association present at any regular or special meeting of the unit owners called for that purpose and approved by the institutional mortgagee holding the greatest dollar volume of mortgage on the condominium. The cost of the foregoing shall be assessed as common expenses of this condominium. Where any alterations or additions as aforesaid are exclusively or substantially exclusively for the benefit of the unit owner(s) requesting same, then the cost of such alterations or additions shall be assessed against and collected solely from the unit owners exclusively or substantially exclusively benefitting, and the assessment shall be levied in such proportion as, may be determined as fair and equitable by the Board of Directors of the association. Where such alterations or additions exclusively or substantially exclusively benefit unit owners requesting same, said alterations or additions shall be made only when authorized by the Board of Directors and ratified by not less than seventy-five (75%) percent of the total votes of the unit owners exclusively or substantially exclusively benefitting therefrom and where said unit owners are ten or less, the approval of all but one shall be required. Alterations and improvements or repairs of an emergency nature may be made upon authorizations by a vote of a majority of the directors available for consultations of same is necessitated and in the best interest of the unit owners.

SECTION 10. RESTRICTIONS ON USE OF UNITS. In order to provide for congenial occupancy of the Property and for the protection of the values of the Units, the use of the Property shall be restricted as follows:

A. The use of common elements by the owners or lessees of all units, and all other parties authorized to use same, shall be at all times subject to such rules and regulations as may be prescribed and established by MISSION SQUARE CONDOMINIUM ASSOCIATION, INC.

B. No immoral, improper, offensive or unlawful use shall be made of any unit or of the common elements or of any part hereof, and all laws, zoning ordinances and regulations of all governmental authorities having jurisdiction over MISSION SQUARE, shall be observed.

C. No unit owner shall permit anything to be done or kept in his unit or in the common elements which will result in the cancellation of insurance on the condominium property or contents thereof, or which would be in violation of any law. No wasting of condominium property will be permitted.

D. No nuisance shall be allowed upon the condominium property, nor shall any use or practice be allowed which is an unreasonable source of annoyance to unit owners or which interferes with the peaceful and proper use of the condominium property by any unit owner.

E. In case of an emergency originating in or threatening any unit, regardless of whether the owner is present at the time of such emergency, the board of directors of the association, or any other person

authorized by it, or the building superintendent or managing agent, shall have the right to enter such unit for the purpose of remedying or abating the cause of such emergency. Such right of entry shall be immediate and to facilitate entry in the event of any such emergency, the owner of each unit, as required by the association, shall deposit a key with the association.

F. Whenever it shall be necessary to enter any unit for the purpose of performing any maintenance, alteration, or repair to any portion of the common elements, the owner of each unit shall permit the owners or their representatives or the duly constituted and authorized agent of the association, to enter such unit for such purpose, provided that such entry shall be made only at reasonable times and with reasonable advance notice.

G. No owner of a unit shall permit any structural modifications or alterations to be made within such unit without first obtaining the written consent of the association, which consent may be withheld in the event that a majority of the board of directors of said association determines, in its sole discretion, that such structural modifications or alterations would affect or in any manner endanger the condominium in part or in its entirety. If the modification or alteration desired by the owner of any unit involve the removal of any permanent interior partition, the association shall have the right to permit such removal so long as the permanent interior partition to be removed is not a load bearing partition and so long as the removal thereof would be in no manner an interference with the providing of utility services constituting common elements located thereon.

H. The association shall not have the right to make or cause to be made such alterations or improvements to the common elements which prejudice the rights of the owner of any unit in the use and enjoyment of his unit, unless, in each instance, such owner's written consent has been obtained. The making of such alterations and improvements must be approved by the board of directors of the association, and the cost of such alterations or improvement shall be assessed as common expense to be assessed and collected from all of the owners of units. However, where any alterations and improvements are exclusively or substantially exclusively for the benefit of the owner of any unit requesting the same, then the cost of such alterations and improvements shall be assessed against and collected solely from the owner of such unit exclusively or substantially benefitted. Such assessment is to be levied in such proportion as may be determined by the Board of Directors.

#### ARTICLE VII - MORTGAGES

SECTION 1. NOTICE TO BOARD OF DIRECTORS. A Unit Owner who mortgages his Unit, shall notify the Board of Directors of the name and address of his mortgagee and shall file a conformed copy of the note and mortgage with the Board of Directors; the Board of Directors shall maintain such information in a book entitled "Mortgages of Units".

SECTION 2. NOTICE OF UNPAID COMMON CHARGES. The Board of Directors, whenever so requested in writing by a mortgagee of a Unit, shall promptly

report any then unpaid Common Expenses due from, or any other default by, the owner of the mortgaged Unit.

SECTION 3. NOTICE OF DEFAULT. The Board of Directors when giving notice to a Unit Owner of a default in paying Common Expenses or other default, shall send a copy of such notice to each holder of a mortgage covering such Unit whose name and address has theretofore been furnished to the Board of Directors.

#### ARTICLE VIII - SALES, LEASES AND MORTGAGES OF UNITS

SECTION 1. NO SEVERANCE OF OWNERSHIP. No Unit Owner shall execute any deed, mortgage, or other instrument conveying or mortgaging title to his Unit without including therein the Appurtenant Interests, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage, or other instrument purporting to affect one or more of such interest, without including all such interest, shall be deemed and taken to include the interest or interest so omitted, even though the latter shall not be expressly mentioned or described therein. No part of the Appurtenant Interests or any Unit may be sold, transferred or otherwise disposed of, except as a part of a sale, transfer or other disposition of the Unit to which such interest are appurtenant, or a part of a sale, transfer or other disposition of such part of the Appurtenant Interests of all Units.

SECTION 2. PAYMENT OF ASSESSMENTS. No Unit Owner shall be permitted to convey, mortgage, pledge, hypothecate, sell or lease his Unit unless and until he shall have paid in full to the Board of Directors, all unpaid Common Expenses theretofore assessed by the Board of Directors against his Unit and until he shall have satisfied all unpaid liens against such Unit, except permitted mortgages.

#### ARTICLE IX - CONDEMNATION

SECTION 1. CONDEMNATION. In the event of a total or partial taking under the powers of eminent domain, the Unit Owners shall be represented by the Condominium acting through the Board of Directors. In the event of a partial taking, the award shall be allocated to the respective Unit Owners according to their undivided interest in the Common Elements, except as to their portion or portions of the award which are attributable to direct or consequential damages suffered by particular Units, which shall be payable to the owners of such Units or their mortgagees, as their interests may appear. In the case of a total taking of all Units and the Common Elements, the entire award shall be payable to the Board of Directors to be distributed to the Unit Owners in accordance with their respective percentage interests in the Common Elements.

#### ARTICLE X - RECORDS

SECTION 1. RECORDS AND AUDITS. The Board of Directors shall keep detailed records of the actions of the Board of Directors, minutes of the meetings of the Unit Owners, and financial records and books of account of the Condominium, including a chronological listing of receipts and expenditures, as well as a separate account of each Unit, which, among