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ENABLING DECLARATION

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ESTABLISHING A PLAN FOR  
CONDOMINIUM OWNERSHIP

THIS DECLARATION, made this 5th day of October, 1973,  
by CALENDER HOMES CORP./INDIANA (the "Declarant"),

WITNESSES

A. Declarant is the sole owner of the fee simple title to the parcel of real estate in Marion County, Indiana, described in Exhibit "A", attached hereto and made a part hereof, and which is designated therein as the "Condominium Property".

B. Declarant, by the execution of this Declaration hereby creates a condominium upon the Real Estate subject to the provisions of the Indiana Horizontal Property Act, hereinafter called the "Act") and the terms and conditions of this Declaration.

C. The property subject to this Condominium may be referred to as The Arbora Horizontal Property Regime.

ARTICLE I

DESCRIPTIONS AND ESTABLISHMENT OF FREEHOLD ESTATES

Section 1.1. Survey Descriptions. Exhibit "A" consists of a survey of the land subjected to this Condominium, and also shows certain adjacent property owned by the Declarant that may be annexed to this Condominium as hereinafter provided. A Site Plan of the land made part of this Condominium, showing the layout, location, identification, numbers and letters, and dimensions of all of the Homes in the Condominium is attached hereto as Exhibit "B". Plans of each Home, and of each building

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in the Condominium, together with representative elevations of the Buildings, are attached hereto as Exhibit "C".

Section 1.2 Establishment of Freehold Estates. Each such separately numbered unit is hereby established as a separate freehold estate, and each such unit shall hereinafter be referred to as a "Home". As used herein Home shall mean "apartment" or "condominium parcel" as defined under the Act.

Section 1.3 Boundaries of Homes. The boundaries of each Home shall be as shown on the Plans and shall extend to the outside (exterior surface) of perimeter exterior walls and to the center line of all common or partition exterior walls. The upper boundaries of each Home shall extend to the exterior surface of the roof over such Home and the lower surface of the Home shall extend through the floor surfaces of the Home to the underlying land. The Home shall also include the garages assigned to the Homes as shown on Exhibit "B". If any Horizontal or Vertical boundary line as shown on the Plans does not coincide with the actual location of the respective wall or roof surface of the Home because of inexactness of construction, settling after construction, or for any other reasons, the boundary lines of each Home shall be deemed to be and shall be treated for purposes of occupancy, possession, maintenance, use and enjoyment, as in accordance with the actual existing construction and/or condition. In each case permanent easements for his exclusive use shall exist in favor of the Owner of each Home in and to the space or structural elements lying outside of the apparent boundary of the Home, but within and/or including the appropriate wall or roof surfaces of the Home. All gutters, downspouts, meters, meter pits, exterior trim, and appurtenances located on the exterior of a Home shall be a part of the Home.

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Section 1.4. Common Areas. The remainder of the land and improvements subjected to this Declaration shall be "Common Areas" which term shall include all "Common Elements" and all "Common Areas and Facilities" as those terms are used in the Act, and it includes all personal property owned by the Association hereinafter referred to, and any and all real or personal property leased by the Association.

The Common Areas, other than any Limited Common Areas, shall be available to all the Homeowners, and shall include but not be limited to, all driveways and parking areas, lawn areas and such recreational facilities as may be provided. All pipes, wires, ducts, conduits and utility lines located in any walls, ceilings or floors of a Home, and any equipment, stairs or similar items which serve any other Home or any common area shall be part of the Common Areas. The Homeowners Association, hereinafter referred to, shall have an easement thereto, and it shall have the right, at reasonable times and at any time in case of emergency, to enter into all Homes and, to the extent necessary, to enter or go into any walls, floors, or ceilings of a Home to get to any such pipes, wires, ducts, conduits and utility lines, or to any other Common Areas. The Homeowners Association shall repair any damage done to any Home as a result of an exercise of their right.

Section 1.5. Ownership of Common Areas and Percentage Interest. Each Owner shall have an undivided interest in the Common Areas as tenants in common with all other Owners, equal to his Home's Percentage Interest, which interest shall include the right to use such Common Areas subject to any rules and regulations governing such use as may be adopted by the Declarant or the Association. Each Home's Percentage Interest is dependent upon and will vary according to the number of the additional Homes that may be annexed to and made a part of this Condominium.

Each Home shall have a percentage interest in Common Areas of this Condominium which shall be equal to the percentage derived by dividing one (1) by the total number of Homes in

the Condominium.

Section 1.6. Appurtenances to Each Home. The Owner of each Home shall own in the Condominium which are appurtenant to and belong to his Home, including, but not limited to, the items listed below which are appurtenant to several "Homes". No such appurtenances may be severed from the Home and such appurtenances shall pass with the transfer of title to a Home.

(a) Common Areas. Each Home shall be entitled to its percentage interest in the Common Areas as an appurtenance thereto.

(b) Automobile Parking. The Common Areas include parking areas, other than garages which will be part of the Homes. Parking spaces will be subject to regulation by the Association, described in Section 2.1 below.

(c) Association Membership. The membership of each Homeowner in the Association, which term as used in this Declaration shall mean the Association described in Section 2.1 below, and the interest of each Homeowner in the fund and assets held by the Association.

(d) Patios. Each Home shall have the use of adjoining patios as designated in Exhibit "C" which patios shall be a Limited Common Area restricted to the use of such Home.

(e) Land. The land in the Condominium shall be a Common Area, but the land underlying each Home shall be a Limited Common Area restricted to the use of such Home.

Section 1.7. Limited Common Areas. Limited Common Areas and Facilities reserved for the exclusive use of Homeowners, their families, servants and invitees, are the paved approach from the curb to the dwelling, the front porch or stoop, and the patios (within the fence lines) attached to the Home, and such other Common Areas as may be designated Limited Common Areas and assigned to the use of one or more Homeowners. The Limited Common Areas and Facilities, here made appurtenant to the respective dwellings, shall not be altered, diminished, or enlarged by any custom or practice of the owners and their neighbors. Limited Common Areas and Facilities shall not be construed or interpreted to be separate and apart from Common Areas and Facilities, but shall only be limited with respect to the reserved use thereof to one or more Homes. The walks between two Homes shall be Limited Common Areas for the use of the Owners of both Homes.

Section 1.8 Encroachments. If any portion of the Common Areas shall encroach upon a Home, or any Home shall encroach upon another Home, then a valid easement shall exist, as hereinafter set forth. If any Home is partially or totally destroyed, and then rebuilt, the Owners of the Home agree that any unintended encroachment upon the Common Areas due to the construction shall be permitted and that a valid easement for such encroachment and the maintenance thereof shall exist. If a Home shall encroach upon any Common Area or upon any other Home by reason of the original construction, or by the non-purposeful or non-negligent act of the Owner, then an easement appurtenant to such encroachment shall exist. If any Common Areas shall encroach upon any Home by reason of original construction or by the non-purposeful or non-negligent act of the Association or of the original developer, then an easement appurtenant to such Common Areas for such encroachment shall exist so long as such encroachment shall exist. If there should be any conflicting easements hereunder, the easement of the Homeowner shall be superior.

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Section 1.9. Supplemental Plot Plans.

The Association and the Declarant each shall have the right, at any time and from time to time, to cause to be prepared and filed of record, supplements or amendments to the Site Plan of the Condominium (Exhibit "B" hereto) in order to show the location of driveways, parking areas, other land improvements, underground pipes, conduits, or lines, utility lines, mains, and easements, and the location of any additional improvements located in the Condominium, for the purpose of establishing of record their location and the fact of their existence. Supplemental Plot Plans will not be used to change the location of any Home.

ARTICLE II

Association

Section 2.1. Homeowner's Association.

Subject to the rights of the Declarant reserved in Section 5.2 below,

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operation and management of the Condominium shall be by The Arbors Association, Inc., a corporation organized as a not-for-profit corporation under the laws of the State of Indiana, which shall fulfill its duties and functions pursuant to the following provisions of this Article II. A copy of the Articles of Incorporation of the Association is attached hereto as Exhibit "D". A copy of the By-Laws of the Association is attached hereto as Exhibit "E".

Section 2.2. Membership in Association. The owner of each Home shall, automatically upon becoming the owner of the Home, be a member of the Association, and shall remain a member of the Association until such time as their ownership ceases for any reason. Membership in the Association shall thus be an appurtenance to each Home in the Condominium and shall pass with the conveyance of the Home to each successive Home owner. Each Homeowner by the acceptance of a deed or other instrument evidencing his ownership interest, shall accept membership in the Association, and shall be subject to the power and authority of the Association.

Section 2.3. Voting Percentage. The owners of each Home as a member shall be entitled to a percentage vote in the Association's affairs equal to its percentage interest in the Common Areas from time to time. The owners of each Home shall collectively be entitled to vote their then percentage interest in the Common Areas. Whenever hereunder the owners are to vote on any matter, such vote shall be by their percentage interest and wherever hereunder a specified percentage of the owners is required, such percentage shall mean votes cast adding up to that percentage, or owners having such an aggregate percentage interest. If any additional areas are annexed to this Condominium, the Homeowners owning Homes in such annexed areas shall also be entitled to a vote in the affairs of the Association equal to their percentage interest in the Common Areas. The By-Laws may provide a procedure for holding such vote, which method may be based upon each Home's unit of interest.

Section 2.4. Board of Directors. The Members shall elect a Board of Directors of the Association annually as prescribed by the By-Laws. The Board of Directors shall manage the affairs of the Association, except that so long as the Declarant owns any Home in the Condominium, there shall be no increases in the annual assessment nor shall there be any special assessments without the Declarant's prior approval.

Section 2.5. Compliance with Documents and Rules and Regulations. The Association shall have the power to promulgate rules and regulations governing the use of the Condominium property including all Common Areas and including the imposition of reasonable rules and regulations for the use of the Homes by Home owners for the common benefit of all Home owners. Each Home owner, tenant, or occupant of a Home, and their guests and invitees, shall comply with the provisions of the Declaration, the By-Laws, and the rules and regulations and the Decisions of the Association or its representatives, as lawfully amended from time to time, and the failure to comply with any such provisions, decisions or regulations, shall be grounds for an action to recover sums due, for damages, or for injunctive relief. So long as the Declarant owns any Home in the Condominium, the powers of the Association set forth herein shall be subject to the rights of the Declarant reserved in Article V hereof.

Section 2.6. Easement of Association. The Association shall have an easement for access to all Common Areas located within a Home, including all pipes, wires, ducts, shafts, conduits, lines, and any structural element serving more than one Home, or serving any other Common Area. This easement is also reserved for the benefit of the Declarant so long as Declarant owns any Home in the Condominium.

Section 2.7. Delegation by Association. Nothing in this Declaration shall limit the discretion of the Board of Directors of the Association to delegate authority to any officer, manager or a management agent, except the power to decide disputes between or among owners of Homes located on the property.



Section 2.8. Professional Management. The Association, upon and after assuming control of the Common Areas of the Condominium, shall contract with a reputable management service for the provision of accounting, bookkeeping and managerial services to include the preparation of, notices for and collection of all assessments and the preparation of notices for all meetings or of any other kind required by this Declaration, and the performance of such other services as the Board of Directors may designate. The expenses for such managerial services shall be Common Expenses. Nothing hereunder shall be deemed to require the employment of a resident agent for the project, however.

ARTICLE III

Use Restrictions

Section 3.1. Residential Purposes. All Homes contemplated in the Condominium shall be, and the same hereby are, restricted exclusively to residential use. All Homes shall be of new construction. They may be connected or they may be separated from other Homes. No structures of a temporary character, trailer, basement, tent, shack, carport, garage, barn, or other outbuilding shall be used as a residence on any portion of the property at any time either temporarily or permanently. Nothing shall be done or permitted in any Home which would structurally change any Building, unless first approved in writing by the Board of Directors.

Section 3.2. Construction and Sale Period. Notwithstanding any provisions contained herein to the contrary, it shall be expressly permissible for the Declarant or the builder of said Homes and structures to maintain, during the period of construction and sale of said Homes, upon such portion of the property as the Declarant may deem necessary, such

facilities as in the sole opinion of the Declarant may be reasonably required, or be convenient or incidental to the construction and sale of the said Homes, including, but without limitation, storage areas, construction yards, signs, model residences, construction offices, sales offices and business offices.

Section 3.3. Outside Planting. No Owner shall plant any trees, landscaping or do any gardening in any Common Areas or areas other than patio areas except with express permission from the Board.

Section 3.4. Animals and Pets. No animals, live-stock or poultry of any kind shall be raised, bred or kept on any part of the property, except that dogs, cats or other household pets may be kept by the respective owners in their respective Homes provided that they are not kept, bred or maintained for any commercial purposes and do not endanger the health or, in the sole discretion of the Association's Board of Directors, unreasonably disturb the owner of any Home or any resident thereof.

Section 3.5. Signs and Business Activities. No advertising signs, (other than normal "for sale" signs), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on the property, nor shall the property be used in any way or for any purpose which may endanger the health of or unreasonably disturb the owner of any Home or any resident thereof. No business activities of any kind whatever shall be conducted in any building or in any portion of the property; provided, however, the foregoing covenants shall not apply to the business activities, signs, and billboards of the Declarant, its agents or assigns during the construction and sale period.

Section 3.6. Clotheslines, Garbage Cans,

Etc. All clotheslines, equipment, garbage cans, service yards, woodpiles and storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring residences and streets. All rubbish, trash and garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon. All clotheslines shall be confined to patio areas.

Section 3.7. Patios and other Common Areas. Except in the individual patio adjacent to a Home, no planting or gardening shall be done, and no fences, hedges, or walls shall be erected or maintained upon the property except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Association's Board of Directors or their designated representatives. The height and types of planting permitted in a patio may

may be regulated by the Association. Patio areas shall not be covered nor shall any awnings or similar structures be placed over patios, unless prior written consent is obtained from the Board of Directors. If any gates are installed to the patio areas, they shall not be locked or otherwise constructed in a manner that will prevent access by any persons reading meters for utility companies. It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the mutual benefit of all owners in the Condominium and is necessary for the protection of said Owner.

Section 3.8. Exterior Antennae. Without prior written approval and authorization of the Board of Directors no exterior television or radio antennae of any sort shall be placed, allowed or maintained upon any portion of the improvements to be located upon the property nor upon any structure situated upon the property other than an aerial for a master antenna system, should any such master system or systems be utilized and require any such exterior antenna.

Section 3.9. Leasing of Residences. Entire residences may be rented provided the occupancy is not for less than one (1) month and such occupancy is only by the lessee and his immediate family or as may be approved or otherwise provided for by the Association's Board of Directors. No room may be rented and no transient tenants accommodated. This Section 3.9 shall not apply, however, to any lease or leases which may be entered into by the Declarant.

Section 3.10. Delegation of Use. Any Homeowner may delegate, in accordance with the By-Laws, his rights of enjoyment in the common areas and facilities to the members of his family, his tenants, or contract purchasers who reside on the property, but only to such person.

Section 3.11. Rights of Homeowners. Every Homeowner [REDACTED] ent of enjoyment in and to the [REDACTED] nant to, and shall pass with the title to every Home, subject to the following provisions:

(a) The right of the Association to charge reasonable admission, maintenance, and other fees for the use of any facilities situated upon the Common Areas, and to make other charges as herein provided.

(b) The right of the Association to suspend the voting rights and right to use Common Areas and facilities by any Homeowner for any period in which any assessment against his Home remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules or regulations.

(c) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility, for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of the Homeowners agreeing to such dedication or transfer has been recorded, although the Board of Directors of the Association may grant underground utility easements without the necessity of Homeowner approval.

(d) The right of the Association to restrict portions of the Common Areas for parking, or for other uses that may be equitable among the members.

(e) The right of the Association to adopt reasonable rules and regulations governing the use of the Common Areas, or which otherwise are deemed by it to be for the common good of all Homeowners.

Section 3.12. Noise and Nuisance. No noxious or offensive activity shall be carried on in any apartment unit, nor shall anything be done or be permitted to remain in any apartment unit which may be or become a nuisance or annoyance to the other co-owners. Residents of The Arbors shall exercise extreme care not to disturb other residents with excessive noise or the use of radios, musical instruments, telephone, amplifiers and speakers.

ARTICLE IV

Common Expense

73 79689 Section 4.1. Common Expenses. Common Expenses shall include all expenses of administration, expense of

insurance, maintenance, operation, repair and betterment of the Common Areas; rent, maintenance and other costs relating to recreational facilities; and any other costs or expenses declared to be Common Expenses under this Declaration, the Articles of Incorporation and the By-Laws; and any other valid charge against the Condominium property as a whole or which is duly adopted by and voted on by the Association. Common Expenses shall include any special assessments voted by the members of the Association.

Section 4.2. Sharing of Common Expenses. Each of the separate Homeowners shall share in any profits and be liable for a share of the Common Expenses in proportion to their percentage interest in the Common Areas. The Board of Directors of the Association may vote to round off the monthly payment of Common Expenses assessed against each Home to the nearest even multiple of One Dollar (\$1.00) or of Fifty Cents (\$.50), or it may vote to round off such monthly assessment to the next higher even multiple of Fifty Cents (\$.50).

Section 4.3. Common Expenses After Annexation of Additional Areas. If and as areas are annexed and become subject to this Declaration, the Common Expenses relating to all Common Areas shall thereafter be divided among all the Homeowners according to their then percentage interests, but subject to the provisions of Section 4.2 above.

Section 4.4. No Exemptions. No owner of a Home may exempt himself from liability for his contribution towards the Common Expenses by waiver of the use and enjoyment of any of the Common Areas or by the abandonment of his Home.

Section 4.5. Budget. A budget of all anticipated common expenses, including capital expenditures and/or reserves if any, shall be prepared for each fiscal year of the Association. Such budget shall be reviewed by the Homeowners in advance of the beginning of the fiscal year.

Section 4.6. Annual and Special Assessments.

Common Expenses shall be assessed to the Homeowners, either as an Annual Assessment, or as a Special Assessment, proportionately in accordance with their respective percentage interest in the Common Areas, as set forth below:

(a) An Annual Assessment shall be made for each fiscal year of the Association for all normal and usual operating expenses of the Condominium, including reserves. It shall be paid in twelve (12) equal monthly installments and shall be due and payable on the first day of each calendar month. The amount of the Aggregate Annual Assessments shall be equal to the total amount of expense provided for in the annual budget, including reserve items.

(b) Special Assessments may be made for any unusual and/or extraordinary items, including for capital expenditures, and for any unanticipated items. Special Assessments shall be payable in such amounts and at such times as may be provided in the resolution or other formal proposal setting forth the terms of such Special Assessment.

(c) An extra Annual Assessment may be made against any Homes having the use of Limited Common Areas which are not then generally available to all Homeowners equally as a charge for the maintenance and upkeep of such Limited Common Areas, or for any other charges or expenses attributable to such Limited Common Areas. Such assessment may be imposed as a condition to the improvement of such areas. Also if any taxes or assessments are levied on Common Areas and provision is not made therefor in the budget, the annual assessments of all Homes shall be raised proportionately to cover such taxes.

(d) The annual and special assessments, together with interest, costs and reasonable attorneys fees, shall be a continuing lien on the property upon which each such assessment is made as each installment thereof becomes payable. Each such assessment, together with interest, costs and reasonable attorneys fees, shall also be the personal obligation of the person who was the owner of the Home at the time the assessment was payable.

Section 4.7. Non-Use for Home Maintenance. Except as otherwise provided herein and in the By-laws, each Homeowner shall be responsible for the maintenance, repair, decoration and replacement within his own Home, and none of the assessments levied by the Association shall be used for that purpose. The Association may perform repair work on a Home, if a Homeowner shall fail to maintain a Home, and charge the cost thereof to the Owner, which cost shall be secured by the lien of the Association on such Home.

Section 4.8. Limitation on Assessments. During the fiscal year ending April 30, 1974, the maximum Annual Assessment shall be \$ 552.00 per year payable in monthly installments of \$ 46.00 plus any additional assessment imposed pursuant to Section 4.6(c) above.

So long as the Declarant manages the Condominium the Annual Assessment shall not be increased more than a cumulative average of 6 percent per year unless such larger increase is approved by a vote of 67% of the members voting in person or by proxy at a meeting duly held after the members have been notified that such meeting would consider the budget for the following year and that an increase averaging more than 6% per year is likely. Such maximum percentage increase shall be computed by compounding the annual assessment during the fiscal year referred to above at the rate of 6% per year until the then current fiscal year.

Section 4.9. Procedure for Special Assessments. In addition to the annual assessments authorized above, the Association may levy in any year special assessments for the purpose of defraying, in whole or in part, the cost of any construction, repair or replacement of a capital improvement upon the Common



Areas including fixtures and personal property relating thereto, and any other Common Expenses of an unusual, extraordinary, or unanticipated nature, providing that any such assessment shall have the assent of 67% of the votes of the members of the Association who are voting in person or by proxy at a meeting called for this purpose. However, Special Assessments required because of an insufficiency of insurance shall not be subject to any vote by the Homeowners.

Section 4.10. Notice of Meetings for Assessments.

Written notice of any meeting called for the purpose of taking any action authorized under Section 4.6(b) and 4.9 above, shall be sent to all members not less than fourteen (14) days, nor more than sixty (60) days in advance of the meeting. At the first such meeting there being present members or proxies entitled to cast sixty percent (60%) of all votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 4.11. Commencement of Assessments. Annual Assessments provided for herein shall be made for each fiscal year of the Association, and the first monthly payment of each annual assessment shall be due on the first day of the first month of each fiscal year. The annual assessment for the fiscal year in which occurs the conveyance of the first Home in the Condominium to a Homeowner shall be established by the Declarant. No Home shall be liable for payments of the annual assessment until the Home is conveyed by the Declarant to a Homeowner, or is leased by Declarant. If the Declarant shall lease a Home then the lessee, so long as he is leasing such Home from the Declarant shall have the right to use all Common Areas to the same extent as if he were a Homeowner under this Declaration. The Homeowner shall pay a prorated monthly assessment for the month in which conveyance occurs. The Board of Directors, or the Declarant, if it exercises its reserved rights therefor under Article V, shall if possible

fix the annual assessment against each Home at least seven (7) days before the beginning of the fiscal year for which assessed. Written notice of the amount of such annual assessment shall be sent to all Homeowners subject thereto. The Association shall, upon due request and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a designated Home have been paid, and if not, the amount of the unpaid and delinquent assessment. If there are any special assessments, such certificates shall include the same information with respect to the special assessment.

Section 4.12. Delinquent Assessment. Any assessment not paid within thirty (30) days after the date due shall bear interest from the date when due, at the rate of eight percent (8%) per annum, or such other interest rate as the Board of Directors of the Association may set. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property.

Section 4.13. Lien of Assessments. All sums assessed by the Association, but unpaid, for the share of the Common Expenses chargeable to a Home together with attorneys fees and the costs of collection thereof, shall constitute a lien on such Home prior to all other liens, except only:

- (a) Tax liens on the Home in favor of any assessing unit or special district; and
- (b) All sums unpaid on the first mortgage of record.

The sale or transfer of any Home by foreclosure or by deed in lieu of foreclosure by or to the First Mortgagee shall not be subject to lien of such assessments for the period prior to such foreclosure or deed in lieu of foreclosure. The lien for sums assessed may be foreclosed by a suit by the manager or Board of Directors acting on behalf of the Owners of such Homes in like manner as a mortgagee of the property. In any such foreclosure the Homeowner shall be required to pay a reasonable rental for the family unit, and the plaintiff in such foreclosure action shall be entitled to the appointment of a

receiver to collect same. The Manager or Board of Directors acting on behalf of the owners or the Association shall have power to bid in the unit at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosing or waiving the lien securing the same. Any foreclosure sale or deed in lieu thereof, shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No such sale or transfer shall relieve the Home from liability for any assessment thereafter becoming due or from the lien thereof.

Section 4.14. Liability of Grantee. In a voluntary conveyance of a Home the grantee of the Home shall be jointly and severally liable with the grantor for all unpaid assessments by the Association against the latter for his share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the manager or Board of Directors of the Association, as the case may be, setting forth the amount of the unpaid assessments against the grantor due the Association if he shall so request, and once having been furnished with such a statement, such person shall not be liable for, nor shall the Home conveyed be subject to a lien for, any unpaid assessments made by the Association against the grantor in excess of the amount therein set forth, plus costs of collection of such sums, if applicable.

ARTICLE V

Declarant's Rights

Section 5.1. Use of Property. Declarant reserves the right to grant easements for utilities and other reasonable purposes across Common Areas, to use any of the Homes as models and to sell, assign or conduct other businesses in connection with the construction and development of the project from any of such Homes prior to their being sold. This reservation of right or privilege in the Declarant includes, but is not limited to, the right to maintain a model, erect signs, maintain an office, staff the office with employees, and to use any and all of the Common Areas and to show Homes then unsold. Any improvements placed on the lands of the Condominium for the purpose of such sales, such as signs, sales and other signs, telephones, or any other promotional items shall not be considered Common Areas nor attachments to the property, but shall remain the property of the Declarant and may be removed at any time convenient to the Declarant. The Declarant retains the right to be considered an owner of any Home that remains unsold. Declarant also reserves the right to make prudent changes in the location or manner of construction of buildings and other improvements.

Section 5.2. Management. Declarant shall have the exclusive right to manage the Condominium and to perform all the functions of the Condominium until it shall have sold and conveyed or leased 88 Homes in the Condominium and for the balance of the fiscal year in which the 88th Home is conveyed or leased, but not more than 7 years from the date of recording of this Declaration. Declarant's right to manage the Condominium shall be to manage the Common Areas, to adopt rules and regulations, to set annual assessments subject to the limitations herein contained, and to adopt the rules and regulations governing the use of the Condominium. Such rights shall be subject to the following.

(a) Declarant shall manage the Common Areas and it shall have the right to assess the Homeowners sums equal to the amount set forth in the Declaration for the annual assessment during the year in which the first conveyance of a Home is made to a Homeowner. After the first year in which a conveyance is made to a Homeowner, Declarant may increase the amount of the annual assessment to the Homeowners, provided such increase shall not exceed the maximum percentage increase permitted without a vote of the members in Section 4.8 above, unless the members of the Association shall approve such increase.

(b) Declarant shall have the right to transfer the management of the Condominium to the Association at any time it believes that the Association is able to manage the Condominium without undue difficulty. Declarant agrees, however, to continue to manage the Condominium property at the same per unit cost as had been established, for the balance of the fiscal year in which the Declarant terminates its right to manage the Condominium. If Declarant shall no longer be willing to manage the Condominium, and Common Areas, it shall notify the Association at least sixty (60) days prior to the end of the fiscal year, or Declarant shall, at the option of the Association, be obligated to manage the Common Areas for the following fiscal year. So long as the management of the Association is being borne by the Declarant, the rights of the Association to manage the property and set assessments shall be suspended.

Section 5.3. Declarant's Easement for Adjoining Property. Declarant reserves the right to grant an easement over the driveways and walks of the Condominium in order to provide access through the Condominium to and from the Declarant's property adjoining the Condominium for the benefit of the owners of property interests in such Property, their tenants, invitees and guests. Declarant further reserves the right to permit owners of all or any portion of the adjoining property, their tenants, invitees and guests, to use the recreational facilities of the Condominium, provided that such persons pay a pro rata share of the operating and maintenance cost of such recreational facilities; that all persons having the right to use the same shall abide by the reasonable rules and regulations adopted by the Association governing such use; and that the number of families permitted to use such recreational facilities shall not exceed 111. Such rights shall not be limited to the Adjacent Property as herein defined.

ARTICLE VI

Rights and Liabilities of Homeowners

Section 6.1. Separate Mortgages of Units. Each owner of a Home shall have the right to mortgage or encumber his own Home together with his respective ownership interest in the Common Areas. No owner of a Home shall have the right or authority to mortgage or otherwise encumber in any manner whatsoever the property or any part thereof except his own Home and its percentage interest in the Common Areas as aforesaid.

Section 6.2 Separate Real Estate Taxes. Real Estate Taxes are to be separately taxed to the owner of each Home, including his share of ownership in the Common Areas, as provided in the Act. If for any year such taxes are not separately taxed to the owners of the Homes, but are taxed on the property as a whole, then each Homeowner shall pay his proportionate share thereof in accordance with his respective percentage interest in the Common Areas.

Section 6.3. Maintenance by Homeowners. The owner of each Home shall furnish and be responsible for, at his own expense, all the maintenance, repairs and replacements within his Home, including the heating and air conditioning system and any partitions and interior walls. Maintenance, repairs, and replacements of the refrigerators, ranges, and other kitchen appliances and lighting fixtures shall be at the expense of each Homeowner.

If due to the negligent act or omissions of a Homeowner or of a member of his family or household pet or of a guest or other occupant or visitor of such owner, damage shall be caused to the Common Areas or to a Home owned by others, or if maintenance, repairs or replacements shall be required which would otherwise be at the Common Expense, then such Homeowner shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Association, unless such loss is covered by the Association's insurance with such policy having a waiver of subrogation clause. Maintenance, repairs and replacements to the Common Areas or the Homes shall be subject to the rules and regulations of the Association.

To the extent that equipment, facilities and fixtures within any Home shall be connected to similar equipment, facilities or fixtures affecting or serving other Homes or any Common Areas, then the use thereof by the owner of such Home shall be subject to the rules and regulations of the Association. The authorized representatives of the Association or Board of Directors or the manager or managing agent for the Association, shall be entitled to reasonable access to any Home as may be required in connection with maintenance, repairs or replacements of or to the Common

Areas or any part thereof, or any equipment, facilities or fixtures affecting or serving other Homes or any Common Areas.

The owner of each Home shall be responsible for his maintenance, repair and replacement of all windows in his Home and also the doors leading into the Home.

Section 6.4. Decorating. The owner of each Home shall furnish and be responsible for, at his own expense, all of the decorating within his Home from time to time, including painting, wall papering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lamps and other furnishings and interior decorating. The owner of each Home shall be entitled to the exclusive use of the interior surfaces of the perimeter walls, floors and ceilings, and such owner shall maintain such interior surfaces in good condition at his sole expense. Decorating of Common Areas (other than the interior surfaces within a Home as provided above), and any re-decorating of a Home to the extent made necessary by any damage or existing decorating of such Homes caused by maintenance, repair, or replacement work on the Common Areas by the Association, shall be furnished by the Association as a part of the Common Expenses. The Association may also repair, and maintain Limited Common Areas, even though the same are assigned to individual Homes.

ARTICLE VII

Maintenance, Control and Insurance

Section 7.1. Maintenance of Common Areas. The Association shall be responsible for the maintenance, repair and replacement of all the Common Areas of the Condominium. The Association shall also be responsible for such maintenance, repairs, and replacements as may be required for the bringing of utility services to the Homes. All maintenance, repairs and replacements required of the Association shall be a Common Expense. However, the Association, or the Declarant, may provide that all or certain of the Limited Common Areas shall be maintained by the Homeowners rather than the Association. In any event the Association shall maintain all unfenced lawn areas.

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Section 7.2. Maintenance Obligations of Association with Respect to Homes. The Association shall maintain, restore, and replace the following portions of a Home, whether the same be damaged or destroyed by ordinary wear and tear, fire, destruction, or in any other manner:

1. The exterior of any building, including the exterior materials, but excluding the doors, windows and window frames. However, the Association shall paint garage doors.
2. The roofs of the Homes, which shall include any portion of a Home located above the upper surface of the rafters. The Association shall also maintain, replace and restore any structural elements of the building or roof located below such plane or planes, provided, however, that interior walls shall not be deemed a structural element as that term is used herein.
3. All gutters, downspouts and exterior trim, located on the exterior of a building shall be maintained, repaired and replaced by the Association as a Common Expense even if owned by the Homeowners. The Association shall maintain the exterior of patios. The Homeowner shall maintain the concrete areas inside his patios.
4. The Association shall repair and restore any damage it may have done resulting from its access and any activities within any portion of a Home by the Association or its agents and employees. The cost of all such repairs by the Association shall be charged as a Common Expense and prorated among all the Owners, except to the extent that such repair work is caused by or necessitated by the negligence of a Homeowner or a member of his family, or his guests or invitees, in which case the Homeowner shall be obligated to reimburse the Association for the cost of such repairs as provided in Section 6.3 of this Declaration.
5. The Association may permit its employees to do minor repairs and service work in and to a Home provided the same services are generally available to all Homeowners. However, it may make reasonable charges for such services and/or it may wholly prohibit or otherwise restrict rendering such services.

Section 7.3. Architectural Control. No building, fence, wall or other structure, shall be commenced, erected, or maintained upon the properties nor shall any exterior addition to or change or alteration thereon other than by the Declarant or its successors or assigns, be made until the plans and specifications showing the nature, kind, shape, height, material, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee appointed by the Board. The Association may impose reasonable restrictions on the manner of performance of such work, time limits for its completion, and other restrictions, either as a condition of its approval, or otherwise. The Association may also require any such work to be done by a bonded contractor. If the Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Common Areas will remain undivided; no owner shall bring any action for partition, it being agreed that this restriction is necessary in order to preserve the rights of the owners with respect to the operation and management of the Condominium. Also the Association shall have an easement to all Common Areas including Common areas located within any walls of any structures or Homes located on the property subject to this Declaration, and the Association shall have no liability whatsoever for entering any portion of such easement areas, including cutting through the walls of any unit or similar damage to a Home, provided, however, that the

Association shall repair any damages committed by it to a Home, in a reasonable manner, and at its own expense. Any change in the appearance or the color or any part of the exterior of a Home shall be deemed a change thereto and shall require the approval therefor as above provided.

Section 7.4. Insurance. The Association, acting through its Board of Directors, shall from time to time obtain fire and extended coverage insurance insuring the real property in the Condominium in an amount equal to the then maximum insurable value thereof. The Association shall review the amounts of such insurance not less often than annually, and shall purchase such additional insurance as is necessary to provide adequate insurance indemnity. Such insurance coverage shall be for the benefit of each Owner, and, if applicable, the Owner's Mortgagee. The proceeds shall be payable to the Association or the Board of Directors, who shall hold such proceeds as trustee for the individual Owners and Mortgagees. The interest of each Owner and his Mortgagee in such proceeds shall be as provided in the By-Laws.

The Association shall also obtain comprehensive public liability insurance for the Common Areas in such limits as the Board of Directors shall deem appropriate, together with Workmen's Compensation Insurance and other liability insurance, if deemed necessary or appropriate by the Board of Directors. Such insurance shall inure to the benefit of each individual Owner, the Association, the Board of Directors, and any manager or company acting on behalf of the Association. All such insurance policies shall include a provision that Owners or lessees of Homes, even though members of the Association, shall in appropriate circumstances be able to recover damages as claimants under such insurance.

The premiums for all such insurance shall be paid by the Association as part of the Common Expenses.

Each Owner shall have the right to purchase any additional insurance he may deem necessary, and each Owner shall be solely responsible for insurance on the contents of his own Home, including all floor and wall coverings, and fixtures and betterments installed by the Owner, and fixtures and betterments stored elsewhere on the Condominium, as well as insurance coverage for additional living expense as may be occasioned by the rebuilding of any Homes as may be required under Section 10.4. It shall be the individual responsibility of each Owner, at his own expense, to provide as he sees fit, homeowner's liability insurance, theft and other insurance covering personal property damage and loss.

ARTICLE VIII

Section 8.1. Disputes. Matters of dispute or disagreement between owners or with respect to interpretation of the application of the provisions of this Declaration or By-Laws or any rules or regulations promulgated by the Association, shall be determined by the Board of Directors of the Association, which determination shall be final and binding upon all Homeowners. If the Association shall deem it to be advisable, it shall have the power to employ experts to advise it in the settling of disputes and to charge the cost thereof as a Common Expense.

Section 7.3. Architectural Control. No building, fence, wall or other structure, shall be commenced, erected, or maintained upon the properties nor shall any exterior addition to or change or alteration thereon other than by the Declarant or its successors or assigns, be made until the plans and specifications showing the nature, kind, shape, height, material, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee appointed by the Board. The Association may impose reasonable restrictions on the manner of performance of such work, time limits for its completion, and other restrictions, either as a condition of its approval, or otherwise. The Association may also require any such work to be done by a bonded contractor. If the Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Common Areas will remain undivided; no owner shall bring any action for partition, it being agreed that this restriction is necessary in order to preserve the rights of the owners with respect to the operation and management of the Condominium. Also the Association shall have an easement to all Common Areas including Common areas located within any walls of any structures or Homes located on the property subject to this Declaration, and the Association shall have no liability whatsoever for entering any portion of such easement areas, including cutting through the walls of any unit or similar damage to a Home, provided, however, that the

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The premiums for all such insurance shall be paid by the Association as part of the Common Expenses.

Each Owner shall have the right to purchase any additional insurance he may deem necessary, and each Owner shall be solely responsible for insurance on the contents of his own Home, including all floor and wall coverings, and fixtures and betterments installed by the Owner, and fixtures and betterments stored elsewhere on the Condominium, as well as insurance coverage for additional living expense as may be occasioned by the rebuilding of any Homes as may be required under Section 10.4. It shall be the individual responsibility of each Owner, at his own expense, to provide as he sees fit, homeowner's liability insurance, theft and other insurance covering personal property damage and loss.

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ARTICLE IX

Annexation

Section 9.1. Declarant's Right of Annexation.

Declarant reserves for a period of seven (7) years, the right to annex to this Condominium, all or any part of the Adjacent Property. Such annexation may be accomplished in one or more phases, and may include all or any part of the Adjacent Property. Declarant agrees, however, that there shall not be more than a total of 111 Homes included in this Condominium.

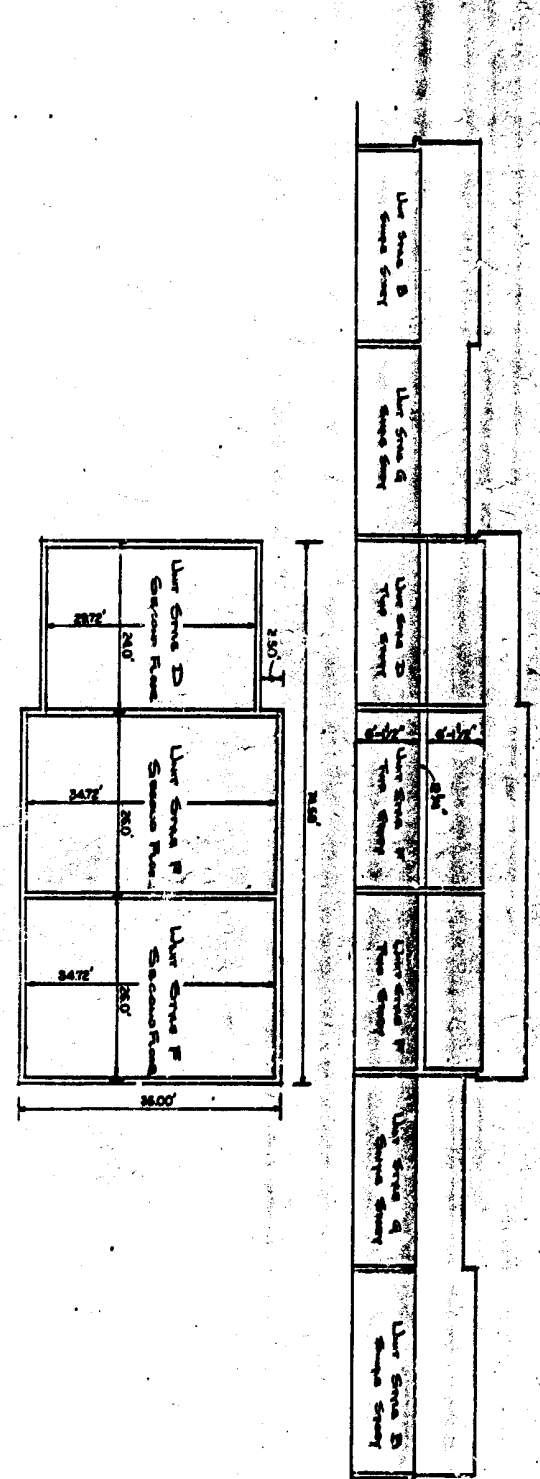
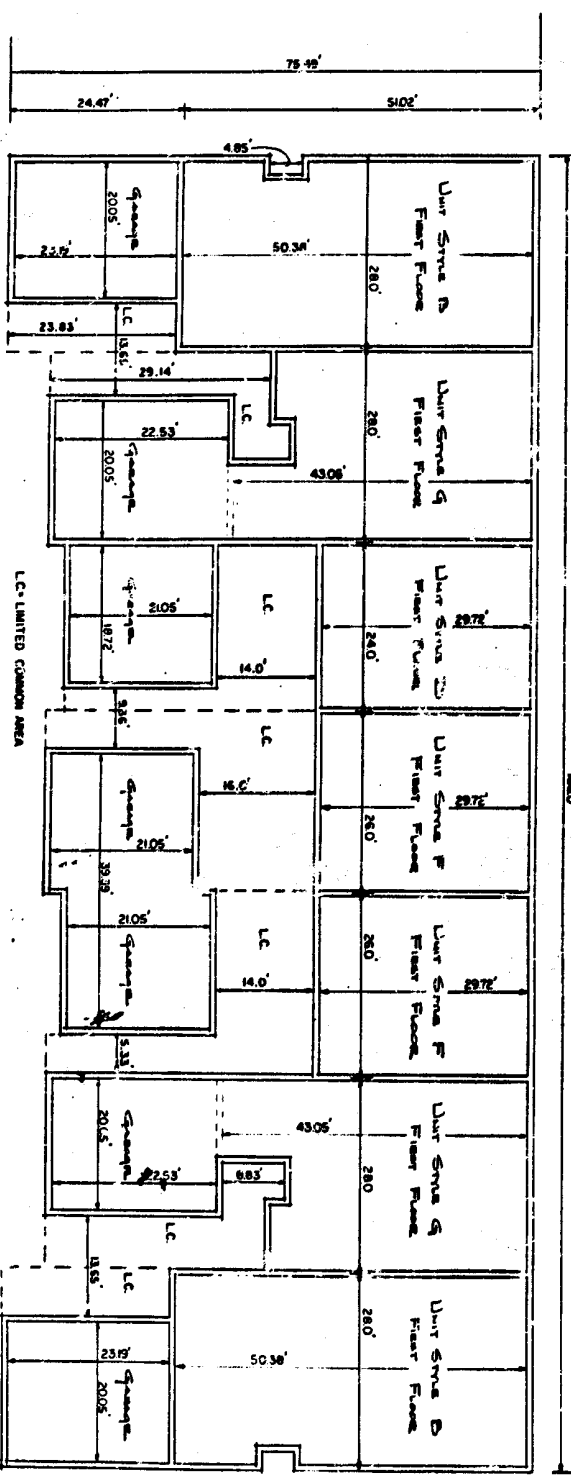
Section 9.2. Reserved Power of Attorney. The

Deed conveying each Home may reserve or cause to be granted a power of attorney in the Declarant to annex such additional areas to this Condominium, and to file Amendments and/or Supplements to the Declaration to accomplish the annexation of such areas hereto. Such Amendments or Supplements to the Declaration shall also set forth the interest of each Homeowner in the Common Areas so that each Homeowner will own a percentage interest in all Common Areas in accordance with the provisions of Section 1.5 above.

Section 9.3. Reallocation of Percentage Interests.

The percentage interest in the Common Areas allocated to each Home shall automatically be shifted and reallocated to the extent set forth in each such recorded Supplement or Amendment to the Declaration and upon the recording of each Supplement or Amendment





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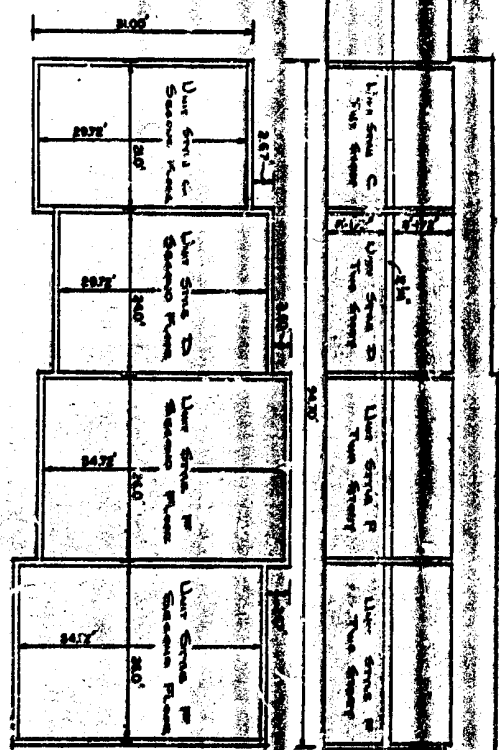
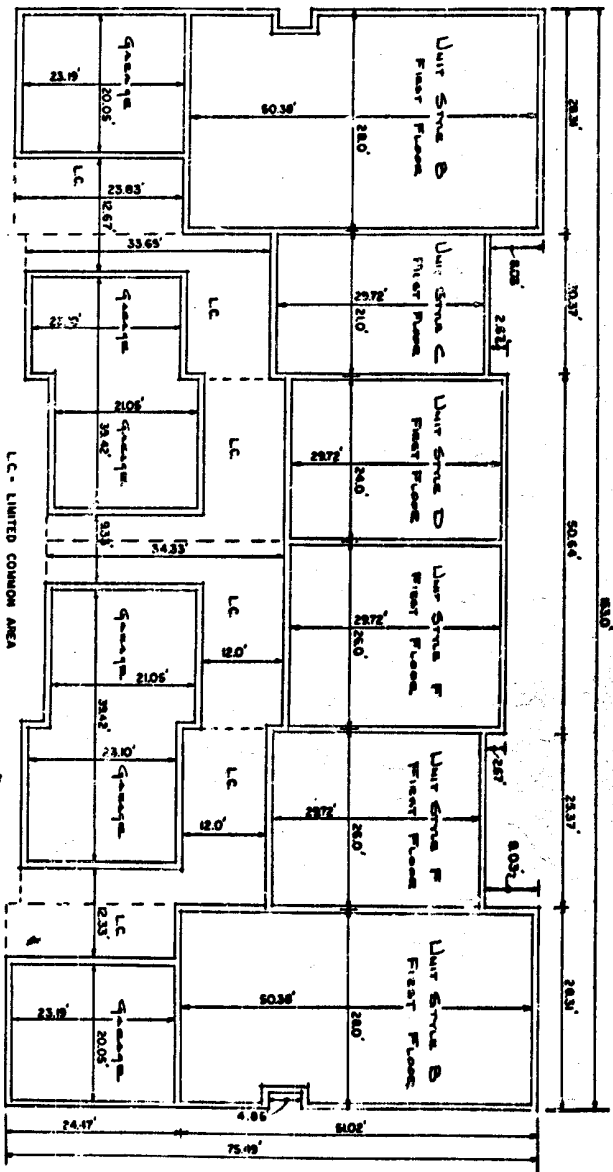
EXHIBIT "C" PAGE 1

PROJECT: THE ARSORS CONDOMINIUM - PHASE I  
 PREPARED FOR: FALENDER HOMES, INC.  
 TITLE: FLOOR PLAN & ELEVATION

SCHNEIDER ENGINEERING CORPORATION  
 1000 NORTH 10TH STREET  
 MILWAUKEE, WISCONSIN 53233  
 SCALE: 1/8" = 1'-0"

*John J. Schneider*  
 CIVIL ENGINEER  
 LICENSE NO. 10000  
 EXPIRES 12/31/2008

NO.	DATE	BY	REVISION



L.C. - LIMITED COMMON AREA

73 73685

BUILDING NO: 1

EXHIBIT "C" PAGE 2

PROJECT: THE ARDORS CONDOMINIUM - PHASE 1  
 PREPARED FOR: FLENDER HOMES, INC.  
 TITLE: FLOOR PLAN & ELEVATION  
 SCALE: 1/8" = 1'-0"

SCHNEIDER PROMERGING CORPORATION  
 220 SOUTH 1ST STREET  
 MILWAUKEE, WISCONSIN 53233  
 Civil Engineers  
 and Surveyors  
 D.P. BOGGS  
 P.C. BOGGS 2000



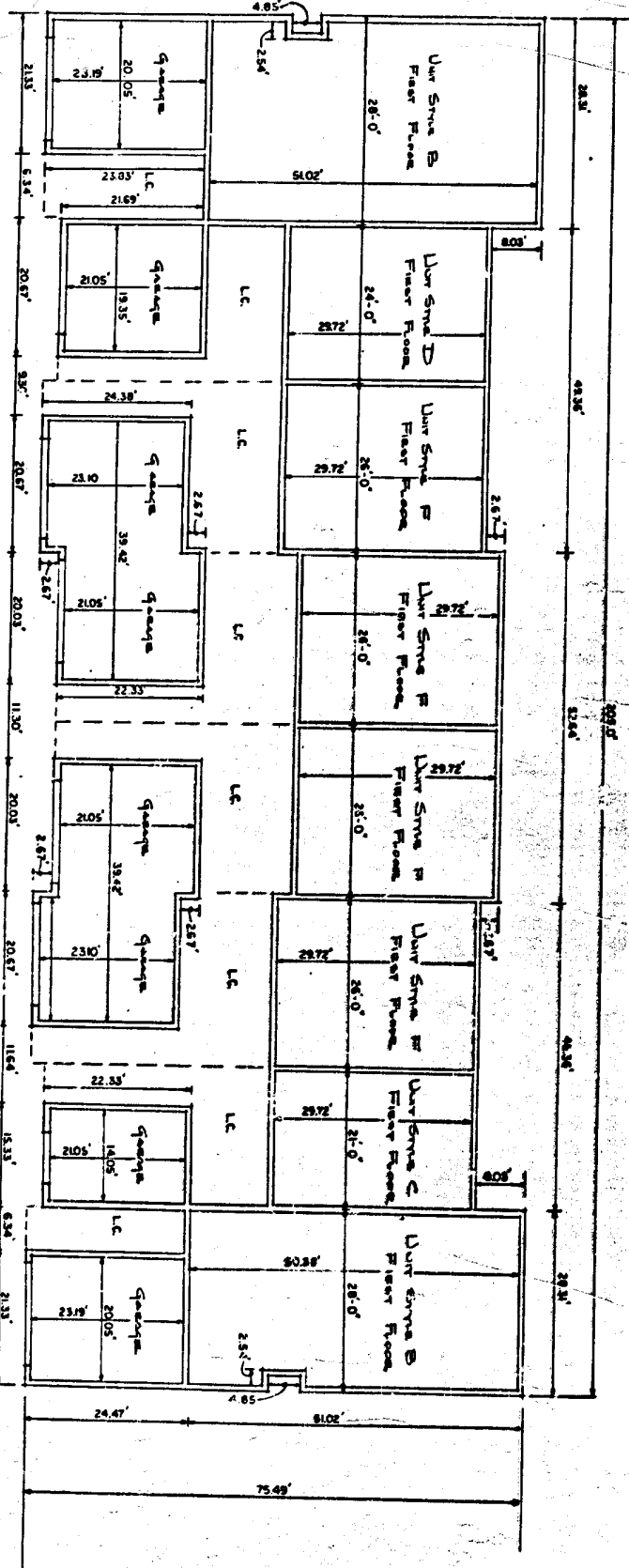
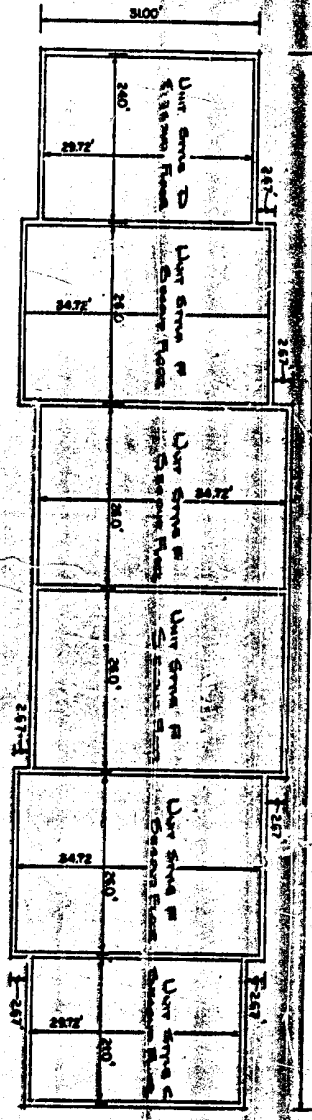
*John D. Schneider*

NO.	DATE	BY	REVISION
1	12/15/21	JDS	ISSUE FOR PERMIT
2	12/15/21	JDS	ISSUE FOR PERMIT
3	12/15/21	JDS	ISSUE FOR PERMIT
4	12/15/21	JDS	ISSUE FOR PERMIT
5	12/15/21	JDS	ISSUE FOR PERMIT
6	12/15/21	JDS	ISSUE FOR PERMIT
7	12/15/21	JDS	ISSUE FOR PERMIT
8	12/15/21	JDS	ISSUE FOR PERMIT
9	12/15/21	JDS	ISSUE FOR PERMIT
10	12/15/21	JDS	ISSUE FOR PERMIT

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L.C. - LIMITED COMMON AREA

73 79039

Building No: 9

EXHIBIT "C" PAGE 3

PROJECT: THE ARONS CONDOMINIUM - PHASE 1  
 PREPARED BY: VALERIE NONES, INC.  
 TITLE: FLOOR PLAN & ELEVATION

SCHEIDT ENGINEERING CORPORATION  
 2101 W. 10TH STREET  
 MINNEAPOLIS, MN 55408  
 PHONE: 612-835-3333  
 FAX: 612-835-3334

*Handwritten signature/initials*

NO.	DATE	REVISION

Section 10.3. Amendment. Amendments to this Declaration shall be proposed and adopted in the following manner:

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

(b) Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Directors of the Association or by at least a majority of the Homeowners.

(c) Meeting. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly held in accordance with the provisions of the By-Laws.

(d) Adoptions. During the first twenty (20) year period any proposed amendment to this Declaration must be approved by a vote of not less than ninety percent (90%) of the Homeowners entitled to vote. Thereafter any proposed amendment to this Declaration must be approved by a vote of not less than sixty-seven percent (67%) of the Homeowners entitled to vote. In the event any Home is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as a Homeowner if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions of the By-Laws.

(e) Special Amendments. This Declaration shall not be revoked, or terminated, nor shall any amendment to this Declaration be adopted which changes the provisions of Section 10.4 of this Declaration with respect to reconstruction or repair in the event of fire or casualty, without the unanimous approval of all Homeowners and Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of the By-Laws.

(f) Recording. Each amendment to the Declaration and each Supplemental Declaration shall be executed by the President and Secretary of the Association, or by the Declarant, and shall be recorded in the Office of the Recorder of Marion County, Indiana,

and such amendment shall not become effective until recorded.

Section 10.4. Casualty and Restoration. In the event of damage or destruction of the Condominium by fire or other casualty, the following provisions shall be applicable:

(a) Partial Destruction. In the event that less than two-thirds (2/3) of the Homes are destroyed by the occurrence of fire or other casualty, then the Association shall cause the Condominium to be repaired and restored promptly. The proceeds of the insurance carried by the Association shall be applied to the cost of such restoration. If the insurance proceeds are not adequate to cover the cost of reconstruction, or in the event there are no proceeds, the excess cost of restoring the damage shall be paid by the Homeowners as set forth in the By-Laws. For purposes of the Act, this Section 10.4, and the By-Laws, no Home located in a building other than that in which the fire or other casualty occurs shall be deemed to be directly affected by the damage. If any Owner, or Owners, refuses or fails to make the required payments, the other Owners shall (or the Association, if such other Owners fail) complete the restoration and pay the cost thereof, and the costs attributable to the Owner or Owners who refuse or fail to make such payments at the time required by the Board of Directors shall become a lien on such defaulting Owners' Home and may be foreclosed in the same manner as provided for the lien for common expenses.

(b) Restoration in the Event of Two-Thirds Destruction.

In the event that the whole or more than two-thirds (2/3) of the Homes are destroyed by fire or other casualty, then

restoration of the Homes must be approved by a unanimous vote of the Homeowners. If such a vote is not forthcoming, the insurance indemnity shall be delivered to the Owners entitled to it in accordance with the By-Laws. If within 120 days from the date of damage or destruction the restoration of the Homes has not been approved by the Association, the property shall be deemed owned in common by all of the Owners and the provisions of the Act shall apply.

(c) Restoration Defined. Restoration, for purposes of sub-paragraphs (a) and (b) above, shall mean construction or rebuilding of the Homes to the same condition as they existed immediately prior to the destruction and with the same type of architecture.

Section 10.5. Recreation Facilities. It is understood that the Recreation Facilities of the Condominium, including the club house, are designed to accommodate one hundred eleven (111) family units. The Association, and the Declarant, shall have the right to permit families other than the Homeowners, to use such facilities, subject to the following limitations:

(a) The aggregate number of families who shall be authorized to use such facilities in any year, including Homeowners, shall not exceed 111.

(b) Each family permitted to use such facilities, who is not a Homeowner, shall be charged a fair pro rata share of the cost of owning, maintaining and operating such facilities. The Association or the Declarant if it is managing the Condominium may determine the method of designating persons authorized to use such facilities and of collecting other charges for their use of such facilities.

(c) No family who is not a Homeowner shall be given the right to use the Recreational Facilities of the Condominium for longer than one year at a time.

(d) The Association, or the Declarant if it is managing the Condominium may establish reasonable rules and

regulations governing the transfer of the right to use the Recreational Facilities and for identifying the persons having such right.

Section 10.6. Cost and Attorneys' Fees.<sup>(a)</sup> In any proceeding arising because of failure of an Owner to make any payments required or to comply with any provisions of the Declaration, the Act, the By-Laws, or rules and regulations adopted pursuant thereto, as each may be amended from time to time, the Association shall be entitled to recover its costs and reasonable attorneys' fees incurred in connection with such default or failure. Such costs and attorneys' fees shall be secured by the Association's lien on each Home.

Section 10.7. Rights of Mortgagees. If any mortgagee of a Home shall so request, he shall be given notice at least thirty (30) days prior to the effective date of any changes in the Condominium document, other than supplemental declarations which only annex additional areas pursuant to Declarant's reserved rights, and also of any change in the management agent or manager of the Condominium.

(b) Unless all holders of first mortgage liens on individual Homes of which the Association has been given notice, have given their prior written approval if they so request, the Association shall not:

(i) Fail to employ professional management for the Condominium unless the Declarant is then serving as manager;

(ii) Change the pro rata interest of any Home for purposes of assessment, or change the percentage interest of any Home, other than through the process of annexation of additional areas as provided in Article IX above.

(iii) Petition or sub-divide any unit of the Common Areas of the Condominium; or

(iv) Seek to abandon the Condominium status of the project except as provided by statute in case of loss to the Homes and/or Common Areas.

(c) Each Mortgagee who shall so request shall be entitled to written notice from the Association of any default by a Mortgagor of an individual Home in the performance of the Mortgagor's obligations under the Condominium documents and which is not cured within sixty (60) days.

(d) The Association shall honor any powers of attorney given by any Homeowner to its Mortgagee pursuant to its mortgage documents.

Section 10.8. Definition of Terms. The following terms as used in this Declaration shall have the meanings set forth as follows:

"Declaration" shall mean this Enabling Declaration and any Supplemental Declarations pertaining to this Condominium.

"Declarant" shall mean FALENDER HOMES CORP./INDIANA, its successors and assigns.

"Condominium" shall mean and include all the units and all Common Areas in the project, including any and all property annexed hereto. Such term and the term "Horizontal Property Regime" shall have the same meaning and such terms may be used interchangeably.

"Home" shall have the meaning set forth in Section 1.2. Sometimes the term "unit" may be used herein to refer to a Home.

"Adjacent Property" shall mean the parcel of additional land which is shown on Exhibit "A" as the land that Declarant has the right to annex to the Condominium.



"Homeowner" shall mean the owner or a collective owner, whichever the case may be, of a Home.

"Limited Common Area" shall mean any part of the Common Area which is restricted to the use of one Home or to a designated group of Homes to the exclusion of other Homes.

"Board of Directors" or "Board" as used herein shall refer to the Board of Directors of the Association.

"Fiscal Year" shall mean the twelve (12) month period beginning May 1 and ending on the following April 30.

"Owner" is used herein interchangeably with Homeowner and shall have the same meaning.

As used herein the singular of any term shall mean and apply to the plural and the plural to the singular. Also the use of any gender shall mean and apply to any other gender where applicable.

IN WITNESS WHEREOF, the parties have entered into this Enabling Declaration Establishing a Plan for Condominium Ownership this 5th day of October, 1973.

FALENDER HOMES CORP./INDIANA

By [Signature]

ATTEST:

[Signature]

STATE OF INDIANA )  
                          )SS:  
COUNTY OF MARION )

RECEIVED FOR RECORD  
DEC 21 1 57 PM '73  
FALENDER HOMES CORP.  
OF MARION CO.

Before me, a Notary Public, in and for said County and State, personally appeared Steven Falender and John E. Kramer, the                            and                           , respectively, of FALENDER HOMES CORP./INDIANA.

WITNESS MY HAND and Notarial Seal this 5th day of October, 1973.  
Commission Expires: May 13, 1974



[Signature]  
Notary Public

This instrument prepared by Walter E. Wolf, Jr.  
KLINEMAN, ROSE and WOLF, 2130 Indiana National Bank Tower  
Indianapolis, Indiana 46204.

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ARTICLE I

THE ARBON COMPANY  
AND OF  
THE ARBON ASSOCIATION, INC.

ARTICLE I  
IDENTIFICATION AND APPLICABILITY

Section 1.01. Identification and Adoption.

These By-Laws are adopted simultaneously with the execution of a certain Declaration creating THE ARBON COMPANY (hereinafter usually called the "Company") to which these By-Laws are attached and made a part hereof. The operation of the Declaration shall be by THE ARBON ASSOCIATION, INC. ("the Association"), to which these By-Laws shall apply.

The Declaration and Articles of Incorporation are incorporated herein by reference, and all of the covenants, rights, restrictions, and liabilities therein contained shall apply to and govern the interpretation of these By-Laws. The definitions and terms as declared and used in the Declaration shall have the same meaning in these By-Laws. The provisions of these By-Laws shall apply to the Property and the administration and conduct of the Affairs of the Association.

Section 1.02. Jurisdiction. All of the Owners, Future Owners, tenants, future tenants, or their guests and invitees, or any other person that might use or occupy a lot or any part of the Property, shall be subject to the rules, restrictions, terms, and conditions set forth in the Declaration, these By-Laws and the Act.

ARTICLE II  
Meetings of Association

Section 2.01. Purpose of Meetings. At least annually and at such other times as may be necessary, a meeting of the Owners shall be held for the purpose of electing the Board of Directors, approving the annual budget, providing for the payment of common expenses, and for such other purposes as may be required by the Declaration, these By-Laws or the Act.

Section 2.02. Annual Meetings. The annual meeting of the members of the Association shall be held on the first Monday after April 15 in each calendar year. At the annual meeting the Owners shall elect the Board of Directors of the Association in accordance with the provisions of these By-Laws and transmit such other business as may properly come before the meeting.

Section 2.03. Special Meetings. A special meeting of the members of the Association may be called by resolution of the Board of Directors or upon a written petition of the Owners who have not less than fifty percent (50%) of the franchise vote. The resolution or petition shall be presented to the President or Secretary of the Association and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

Section 2.04. Notice and Place of Meetings. All meetings of the members of the Association shall be held at any suitable place in Marion County, Indiana, as may be

designated by the Board of Directors. Written notice stating the date, time and place of any meeting, and in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Association to each Owner. The notice shall be mailed or delivered to the Owners at their address as it appears upon the records of the Association and to any mortgagee who requests the same in writing at the address as it appears on the records of the Association. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

Section 2.11. Voting.

(a) Number of Votes. To facilitate the orderly conduct of the meeting, each Owner shall have a Percentage Vote and shall be entitled to cast that number of votes on each matter coming before the meeting which is equal to his Home's unit of interest in the Common Areas as set forth in Section 1.5 of the Declaration.

(b) Multiple Owners. Where the Owner of a Home constitutes more than one person, or is a partnership, there shall be only one voting representative entitled to all the Percentage Vote allocable to that Home. At the time of acquisition of a title to a Home by a multiple Owner or a partnership, those persons constituting such Owner or a partnership, with the Secretary of the Association an irrevocable proxy appointing one of such persons or partnerships as the voting representative for such Home, which shall remain in effect until the partners designate another representative, or such appointed representative relinquishes such appointment in writing, becomes incompetent, dies or such appointment is otherwise rescinded by order of a court of jurisdiction. Such appointed voting representative may grant a proxy to another to vote in his place at a particular meeting or meetings pursuant to paragraph (d) of this Section 2.05, which shall not constitute a permanent relinquishment of his right to act as voting representative for the Home.

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(c) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustee may cast the Percentage Vote on behalf of the trust and the agent or other representative of the corporation duly empowered shall cast the Percentage Vote to which the corporation is entitled.

(d) Proxy. An Owner may vote either in person or by his duly authorized and designated attorney-in-fact, who may vote in writing, delivered to the Association prior to or at the commencement of the meeting.

(e) Quorum. Except where otherwise expressly provided in the Declaration, these By-Laws or the Act, the "quorum" representative of the Percentage Vote shall constitute a quorum at all meetings. The term "majority of Owners or majority of Percentage Vote, as used in these By-Laws shall mean the Owners entitled to more than one-half (1/2) of the Percentage Votes in accordance with the applicable percentage set forth in the Declaration, as such may be amended from time to time.

(f) Conduct of Meeting. The Chairman of the meeting shall be the President of the Association. He shall call the meeting to order at the duly designated time and business will be normally conducted in the following manner:

(1) Reading of Minutes. The Secretary shall read the minutes of the previous meeting and the minutes of any special meetings held subsequent thereto, but such reading may be waived upon motion.

(2) Statement of Accounts. The Treasurer shall report to the meeting the financial condition of the Association and answer relevant questions of the Owners regarding the Common Expenses and Financial Report of the Association and the proposed budget for the current year.

(3) Business. The proposed budget for the current year shall be presented to the Owners for approval or amendment.

(4) Election of Board of Directors. Nominations for the Board of Directors may be made by any Owner from those persons eligible to serve. Such nominations must be in writing and must be filed with the Secretary of the Association at least ten (10) days prior to the date of the annual meeting. Voting for the Board of Directors will be by paper ballot. The ballot shall contain the name of each person eligible to be elected and the number of votes to which it is entitled for as many nominees as are to be elected; however, he shall not be entitled to cumulate his votes. Each Owner may cast the total number of votes to which he is entitled. The number of votes shall be elected the Owner voting Owner shall sign his ballot.

(5) Other business. Other business may be brought before the Board of Directors by written request submitted to the Secretary of the Association at least ten (10) days prior to the date of the meeting; provided, however, that such written request may be made by a majority of the percentage vote.

ARTICLE III

Board of Directors

Section 3.01. The affairs of the Association and the Condominium shall be governed and managed by the Board of Directors (herein collectively called the "Board" or "Directors" and individually called "Directors"). The Board of Directors shall be composed of five persons. No person shall be eligible to serve as a Director unless he is an Owner or is appointed by the Restaurant, and no person may serve as a Director who is 31 days or more delinquent in paying any installment of an Annual or Special Assessment.

Section 3.02. Initial Board of Directors. The initial Board of Directors shall be as provided in the Articles, all of whom shall be appointed by Restaurant. Notwithstanding any other provisions in the Articles, or the Declaration, the initial Board shall hold office until the first annual meeting of the Owners which shall be held on the first Monday on or after April 1, 1974.

Section 3.03. Additional Qualifications. There shall be no person or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a person or an officer or trustee shall be eligible to serve on the Board of Directors, except that no homeowner other than the Restaurant may be represented on the Board of Directors by more than one person at a time.

Section 3.04. Term of Office and Vacancy. The Board of Directors shall be elected at each annual meeting of the Association. Directors shall hold office for a term of one (1) year or until their successors have been duly elected and qualified.

Any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the percentage vote of the Owners if a Director is removed in accordance with Section 3.05 of this Article.

Section 3.05. Removal of Director. A Director or Directors, except the initial Directors, may be removed with or without cause by vote of the Owners at a meeting duly called at the same meeting from eligible Owners nominated at the annual meeting. A Director so elected shall serve until the next annual meeting of the Owners or until his successor is duly elected and qualified.

Section 3.06. Duties of the Board of Directors. The Board of Directors shall provide for the administration of the Condominium, the maintenance, upkeep and preservation of the Common Areas and Limited Areas, and the collection and disbursement of the Common Expenses. These duties include, but are not limited to:

- (a) Management, maintenance and repair of the Common Areas.
- (b) Procuring of utilities used in connection with the operation and maintenance of the Common Areas, and their removal from the Common Areas.

(c) landscaping, painting, decorating, and maintenance of the exterior of the building, as provided in the Declaration.

(d) surfacing, paving and maintaining streets, parking areas, and sidewalks;

(e) assessment and collection from the Owners of the Owner's pro rata share of the Common Expenses;

(f) preparation of annual budgets;

(g) preparing and delivering annually to the Owner a full accounting of all receipts and expenditures in the prior year, and the budget for the current year, which shall be delivered to the Owner simultaneously with the delivery of the annual budget;

(h) keeping a current, accurate and detailed record of records and appendices affecting the Property, including and listing the Common Expenses. All records and vouchers shall be available for examination by an Owner at any time during normal business hours.

**Section 3.07. Powers of the Board of Directors.**

The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties.

These powers include, but are not limited to, the power:

(a) to employ a managing agent or a real estate management company (either being hereinafter referred to as "Managing Agent") to assist the Board in performing its duties;

(b) to purchase for the benefit of the Owners such equipment, materials, labor, and services as may be necessary in the judgment of the Board of Directors;

(c) to procure for the benefit of the Owners fire and extended coverage insurance covering the Building and the Property to the full replacement value thereof and to procure public liability and property damage insurance covering the Building and the Property to the full replacement value thereof and the Association, for the benefit of the Owners and the Association;

(d) to employ legal counsel, architects, engineers, accountants, and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Condominium;

(e) to include the name of all of the above and foreclose as a Common Expense and to pay all of such costs therefrom;

(f) to open and maintain a bank account or accounts in the name of the Association;

(g) to determine rules for the election and term of personnel necessary for the maintenance, repair and replacement of elevators, stairways and the payment of vouchers, invoices and the like;

(h) to adopt, revise, amend and alter from time to time reasonable rules and regulations with respect to the use, enjoyment, maintenance and enjoyment of the Property;

**Section 3.08. Limitation on Third Parties. The**

liability of the Board of Directors or other such committees shall be limited to contracts involving a total expenditure of less than \$2,500.00 without obtaining the prior approval of Owners at a meeting thereof, except in the following cases:

(a) contracts for replacing or repairing portions of the Common Areas of the Building which are not in excess of \$2,500.00 and for which the Board of Directors has actually received;

(b) proposed contracts and proposed expenditures for the purchase of materials, labor, and services which have been approved by the Board at the annual meeting;

(c) items within the budget need not be approved by the Board of Directors if the total budgeted items for a year are not exceeded and by so doing the total budget will not be increased.

**Section 3.09. Compensation. No Director shall**

receive any compensation for his services as such except to such extent as may be held at such time and place as shall be determined from time to time by the Homeowners.

Section 3.10. 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 President.

The Secretary shall give notice of the regular meetings of the Board to each Director personally or by United States Mail at least five (5) days prior to the date of such meeting.

Special meetings of the Board of Directors may be called by the President or any two members of the Board.

The person or persons calling such meeting shall give written notice thereof to the Secretary who shall either personally or by mail and at least three (3) days prior to the date of such special meeting, give notice to the Board members. The notice of the meeting shall contain a statement of the purpose for which the meeting is called. Such meeting shall be held at such place and at such time within Marion County, Indiana, as shall be designated in the notice.

Section 3.11. Waiver of Notice. Any Director may, in writing, waive notice of a meeting and such waiver shall be deemed equivalent to the giving of such notice.

The presence of any Director at a meeting shall, as to such Director, constitute a written notice of the time, place and purpose thereof. If all Directors are present at the meeting of the Board, notice shall not be required and any business may be transacted at such meeting.

Section 3.12. Quorum. At all meetings of the Board a majority of the Directors shall constitute a quorum for the transaction of business and the votes of the majority of the Directors present at a meeting at which a quorum is present shall be the decision of the Board.

Section 3.13. Non-liability of Directors.

The Directors shall not be liable to the Owners or any other person for any error or mistake in judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, his fraud or gross negligence. The Owners shall indemnify and hold harmless each of the Directors against any and all liability to any person, firm or corporation arising out of contracts made by the Board on behalf of the Association, unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or By-laws. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of the Association and that in all matters the Board is acting for and on behalf of the Owners as their agent. The liability of any Owner arising out of any contract made by the Board or out of the aforesaid indemnity in favor of the Directors shall be limited to such percentage of the total liability or obligation thereunder as is equal to his Percentage Interest. Every contract made by the Board or the Managing Agent on behalf of the Association shall provide that the Board of Directors and the Managing Agent, as the case may be, is acting as agent for the Owners and shall have no personal liability thereunder, except in their capacity as Owners and then only to the extent of their Percentage Interest.

Section 3.14. Additional Indemnity of Directors.

The Owners shall indemnify any person, his heirs, assigns and personal representatives, made a part to any action, suit or proceeding by reason of the fact that he is or was a Director of the Association, against the reasonable expenses, including attorneys fees, actually and necessarily incurred.

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by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therefrom, except as otherwise specifically provided herein in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such Director is liable for gross negligence or misconduct in the performance of his duties. The Owners shall also reimburse to any such Director the reasonable costs of settlement or of judgment rendered in any action, suit or proceeding, if it shall be found guilty of gross negligence or misconduct in the performance of his duties. The Owners shall also reimburse to any such Director the reasonable costs of settlement or of judgment rendered in any action, suit or proceeding, if it shall be found by a majority of the Owners that such Director was not guilty of gross negligence or misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Director, no Director shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good faith, such Director relied on the books and records of the Association or statements or advice made by or prepared by the Managing Agent or any officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the Association to render advice or service unless such Director had actual knowledge of the falsity or incorrectness thereof; nor shall a Director be deemed guilty of or liable for negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Directors.

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Section 3.15. Bond. The Board of Directors shall give bond and shall require the Treasurer and such other officers as the Board deems necessary to give bond, indemnifying the Association against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misappropriation, and other acts of fraud or dishonesty, in such sums and with such sureties as may be provided by the By-Laws of the Board of Directors and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. The expense of such bond shall be a Common Expense.

ARTICLE IV  
Officers

Section 3.01. Officers of the Association. The principal officers of the Association shall be the President, Vice President, Secretary and Treasurer, all of whom shall be elected by the Board. The Directors may appoint an Assistant Treasurer and an Assistant Secretary and such other officers as in their judgment may be necessary. Any two or more offices may be held by the same person, except that the duties of the President and Secretary shall not be performed by the same person.

Section 3.02. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the initial meeting of each new Board. Upon an affirmative vote of a majority of all members of the Board, any officer may be removed either with or without cause and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 3.03. The President. The President shall be elected from among the Directors and shall be the chief

executive officer of the Association. He shall preside at all meetings of the Association and of the Board, shall have and discharge all of the general powers and duties usually vested in the office of president or chief executive officer of an association or a stock corporation, organized under the laws of Indiana, including, but not limited by, the power to appoint committees from the Owners and he may deem necessary to assist in the affairs of the Association and to perform such other duties as the Board may from time to time prescribe.

Section 1.06. The Vice President. The Vice President shall be elected from among the Directors and shall perform all duties incumbent upon the President during the absence or disability of the President. The Vice President shall also perform such other duties as these By-Laws may prescribe or as shall, from time to time, be imposed upon him by the Board or by the President.

Section 1.07. The Secretary. The Secretary shall be elected from among the Directors. The Secretary shall attend all meetings of the Association and of the Board and shall keep or cause to be kept a true and complete record of the proceedings of such meetings, shall perform all other duties incident to the office of the Secretary, and such other duties as from time to time may be prescribed by the Board. The Secretary shall specifically see that all notices of the Association or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-Laws.

Section 1.08. The Treasurer. The Board shall elect a Treasurer who shall maintain a correct and complete record of account showing accurately at all times the financial condition of the Association and such other duties incident to the office of the Treasurer. He shall be the legal custodian

of all monies, notes, securities and other valuables which may from time to time come into the possession of the Association. He shall immediately deposit all funds of the Association coming into his hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account in the name of the Association. Another officer may serve as the Treasurer, as may a person who is not a member of the Board of Directors.

Section 1.09. Assistant Officers. The Board of Directors may, from time to time, designate and elect from among the Owners an Assistant Secretary and Assistant Treasurer who shall have such powers and duties as the officers whom they are elected to assist shall delegate to them and such other powers and duties as these By-Laws or the Board of Directors may prescribe.

**ARTICLE V**  
**ASSESSMENTS**

Section 2.01. Annual Accounting. Annually, after the close of each calendar year and prior to the date of the annual meeting of the Association, the Board shall cause to be prepared and furnished to each Owner a financial statement prepared by a public accounting firm then serving the Association, which statement shall show all receipts and expenses received, incurred and paid during either the preceding calendar year, or in the alternative the same for the current fiscal year.

Section 2.02. Proposed Budget. Annually, on or before the date of the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget for the ensuing fiscal year estimating the total amount of the Common Expenses for the ensuing year and furnish a copy of such proposed budget to each Owner prior to the annual meeting. The annual budget shall be submitted



to the Owners at the annual meeting of the Association for adoption, and, if so adopted, shall be the basis for the Annual Assessment for the following fiscal year. At the annual meeting of the Owners, the budget may be approved in whole or in part or may be amended in whole or in part by a majority of the Percentage Votes provided, however, that if the annual meeting of the Owners is adjourned before an annual budget is approved at such meeting, then the Board of Directors may adopt an annual budget for such year.

Section 5.01. Annual Assessments. Promptly following the adoption of the annual budget, the Board of Directors shall give written notice of the assessment against each respective Home based on its Percentage Interest (herein called the "Annual Assessment"). The Annual Assessment against each Home shall be assessed on a fiscal year basis for the year beginning on \_\_\_\_\_ and shall be due and payable in equal monthly installments, in advance, on the first day of each month. Payment of the monthly installments of the Annual Assessment shall be made to the Board of Directors or the Managing Agent, or otherwise, as directed by the Board of Directors. The Annual Assessment shall automatically become a lien on that Home on the date it is due and payable. The Secretary of the Association shall, upon due request and for a reasonable charge, furnish a certificate setting forth whether the annual and special assessments on a designated Home have been paid, or the amount of any unpaid and delinquent annual or special assessments.

Section 5.01. Assessments After Amendment. Subsequent to the filing of any Supplemental Declaration and prior to the date the assessment on the amended portion shall commence, the Board of Directors shall revise the budget to include the additional area and it shall revise the Annual Assessments accordingly provided, however, such revised Annual Assessments shall not be any greater or increase the amount of the Annual Assessment that an Owner is paying at the time of the revision of the budget.

Section 5.02. Failure of Owner to Pay Assessments. Each Owner shall be personally liable for the payment of all Regular and Special Assessments. Where the owner consists of more than one person, the liability of such persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular or Special Assessment when due, the lien of such assessment on the Owner's Home may be foreclosed by the Board of Directors for and on behalf of the Association as provided by law. In any action to foreclose the lien for assessments, the Owner and occupant shall be jointly and severally liable for the payment to the Association of reasonable rental for such Home and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Home and to collect the rentals and other profits therefrom for the benefit of the Association to be applied to the unpaid Regular or Special Assessment. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Annual or Special Assessment without foreclosing or waiving the lien securing the same. In any action to recover by foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover costs and expenses of such action incurred, including but not limited to reasonable attorneys' fees, from the Owner of the respective Home.

Section 5.06. Maintenance and Repairs. Every Owner shall promptly perform all maintenance and repair within his own Home, which, if neglected, would affect the value of the Property. Such maintenance and repairs include, but are not limited to, any partitions and interior walls, windows in the Home and all doors leading into the Home, internal water lines, plumbing, electric lines, appliances, gas lines, telephones, air conditioning, doors, windows, lamps and all other accessories pertaining to the Owner and apartment to the Home.

ARTICLE VI

Right to Enter, Rules and Regulations

Section 5.07. Right of Entry. An Owner or occupant of a Home shall grant the right of entry to the Managing Agent or any other person authorized by the Board in case of any emergency originating in or threatening his Home or the Building in which it is located, whether the Owner is present at the time or not. Any Owner shall permit other persons, or their representatives where so required, to enter his Home for the purpose of inspection or performing installations, alterations or repairs to the mechanical or electrical services, or to make structural repairs, provided that requests for entry are made in advance and that such entry is at a time convenient to the Owner. In case of emergencies, such right of entry shall be immediate.

Section 5.08. Right of Board to Adopt Rules and Regulations.

The Board may promulgate such additional rules and regulations regarding the operation of the Property, including but not limited to the use of the Common Areas and Limited Common Areas, as it may deem necessary from time to time and such rules as are adopted may be amended by a vote of a majority of the Board, and the Board shall enforce copies of such rules to be delivered or mailed promptly to all Owners.

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ARTICLE VII

Assessment to By-Laws

Section 7.01. These By-Laws may be amended by a vote of not less than sixty-seven percent (67%) of the Percentage Vote of the Owners in a duly constituted meeting called for such purpose, or at an annual meeting.

ARTICLE VIII

Mortgages

Section 8.01. Notice to Association. Any Owner who places a first mortgage lien upon his Home, shall notify the Secretary of the Association and provide the name and address of the mortgagee or the mortgagee may do so. A record of such mortgage and the name and address shall be maintained by the Secretary and any notice required to be given to the mortgagee pursuant to the terms of the Declaration or these By-Laws shall be deemed effectively given if mailed to such mortgagee at the address shown in such record at the time provided. Unless notification of any such mortgage and the name and address of mortgagee are furnished to the Secretary, either by the Owner or the mortgagee, no notice to any mortgagee as may otherwise be required by the Declaration or these By-Laws shall be required and no mortgagee shall be entitled to vote on any matter to which he otherwise may be entitled by virtue of the Declaration or By-Laws or proxy granted to such mortgagee in connection with the mortgage.

Section 8.02. Notice of Unpaid Assessments.

The Association shall, upon request of a mortgagee, a prospective mortgagee or purchaser who has a contractual plan to purchase a Home, furnish to such mortgagee or purchaser a statement setting forth the amount of the then unpaid annual or special Assessments against the Home, which statement shall be binding upon the Association and the Owners, and any mortgage or grantee of the Home shall not be liable for nor shall the Home conveyed be subject to a lien for any unpaid assessments in excess of the amount set forth in such statement.

ARTICLE IX  
Insurance and Use of Proceeds

Section 9.01. Insurance. (a) The Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain insurance for all the buildings in the Condominium against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard, and shall also obtain a broad form public liability policy covering all Common Areas and Limited Common Areas and all damage or injury caused by the negligence of the Association or any of its agents. Said insurance may include coverage against vandalism and may include loss of occupancy and such other coverage as the Association may deem appropriate. All such insurance coverage, including insurance on individual buildings obtained by the Board of Directors shall be written in the name of the Association as Trustee for each of the Owners, in proportion to their respective units of interest in the Condominium. Additional insurance on individual homes obtained by their respective Owners may be written in the name of such Owners. Premiums for insurance obtained by the Board of Directors on individual buildings shall be included in the annual assessment as provided hereunder.

(b) The Board of Directors shall advise each Owner annually in writing of the amount and type of insurance coverage on his particular home.

Section 9.02. Source of Reimbursement of Improvements. If all or any part of the Condominium Property is damaged or destroyed, they shall be rebuilt or repaired as provided in Section 10.4 of the Declaration.

Section 9.03. Collection of Insurance. The Board of Directors of the Association shall collect all insurance proceeds payable with respect to any damaged building, and shall contract or make arrangements to rebuild or repair the damaged

such damage. All insurance payable on account of such casualty shall be deposited by the Association in a bank or financial institution, the accounts of which bank or institution are insured by a Federal governmental agency, with the proceeds agreed to by the said bank or institution that such funds may be withdrawn only upon the signature of at least two members of the Board of Directors, or by their duly authorized agent.

Section 9.04. Restoration and Repair. The Board of Directors may advertise for sealed bids with licensed contractors for such repair or restoration, and then may negotiate with any contractor who, unless the Board of Directors shall otherwise determine, shall be required to provide a full performance and payment bond for the repair, reconstruction or rebuilding of such damaged building or buildings, and/or other improvements. If the insurance proceeds payable on account of the casualty are insufficient to pay all the cost of repairing and/or reconstructing the building or buildings to the same condition as formerly, the Board of Directors shall levy a special assessment against the Owners directly affected by the damage to make up any deficiency in the proportions provided in Section 9.03 hereof.

If there is more than one building destroyed, the insurance proceeds payable to the Association shall be apportioned to the respective buildings on the basis of the relative square footage to the several buildings that were damaged. If there is a dispute about the relative amount of damage to the buildings, the Association shall have an independent appraiser use to determine the relative amount of damage. If the insurance proceeds are adequate to pay for all the damage done, then arrangements to the several buildings shall not be necessary. Excess insurance proceeds, if any, shall become a part of the Association's general funds to be used as the Board of Directors may deem to be appropriate.

Section 9.05. Assessment of Homeowner's If Insurance Proceeds are Inadequate. If any buildings are to be repaired or restored under the terms of Section 10.4 of the Declaration and the insurance proceeds are inadequate to pay the complete cost of such repair or restoration, Special Assessments shall be made against the Owners of the Homes in the buildings directly affected by the damage, and against all Homeowners in case of damage to Common Areas, in sufficient amounts to provide the funds necessary to complete such repair or restoration. Such assessments may be made at any time and at more than one time. Assessment for damage to a building containing Homes shall be made to the Owners of the Homes therein in proportion to the relative damage or destruction to each Home. Assessments on account of damage to Common Areas shall be in proportion to the Owner's Percentage Interest in the Common Areas. The Board of Directors shall select a qualified appraiser who shall separately determine the relative damage or destruction done to each Home and to the Common Areas. In so doing, the appraiser may, but shall not be required to, consider the Owner's Percentage Interest and the value of their respective Homes.

Section 9.06. Allocation of Insurance Proceeds if No Repair or Restoration. If after major damage or destruction the damaged or destroyed buildings are not to be restored, then the insurance proceeds payable on account of the damage to or destruction of such buildings shall first be used to pay the cost of removing any portion of the buildings that remain after such casualty and of restoring the site. The balance of the funds on hand shall then be distributed to the Homeowners and the holders of items on the Homes in accordance with the relative value of the Homes immediately prior to the damage if permitted by law; otherwise in proportion to their Percentage Interest in the Common Areas.

In order to determine the relative values of the Homes the Board of Directors shall select a qualified appraiser who shall determine the relative values of each Home. The determination of the appraiser shall be binding upon all parties except that if any of the affected Owners challenges the appraiser's determination, such Owner shall appoint a qualified appraiser skilled in valuation of damage and destruction to determine the value. The average of the calculations of the two appraisers shall determine the question of such value. In the event that an Owner or Owners challenge the determination of the original appraiser, the expense of all three appraisers shall be shared to such challenging Owner or Owners. The determination of the Board of appraisers shall be final and binding upon the Association and all affected Owners.

Section 9.07. Homeowner's Insurance. In the event of damage or destruction by fire or other casualty to any Home or other property covered by insurance written in the name of an individual Owner, said Owner shall be entitled to such insurance proceeds.

EFFECTIVE DATE:

CONSENT BY MORTGAGEE

The Indiana National Bank, Mortgagee  
of the Real Estate being submitted to the Horizontal Property Act  
hereby consents to such property being submitted to the Horizontal  
Property Regime, and it agrees that its lien on the Common Areas  
of the Horizontal Property Regime shall be released and said Mort-  
gagee shall look solely to its Mortgage Lien on each of the Homes  
in the Condominium together with their respective percentage in-  
terest in the Common Areas and Facilities thereof.

Dated this 19<sup>th</sup> day of November, 1973.

By Thomas J. Hall, V.P.

STATE OF INDIANA )  
                          )  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and  
State, personally appeared Thomas J. Hall  
who acknowledged the execution of 'he foregoing consent on behalf  
of The Indiana National Bank.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal  
this 19th day of November, 1973.

Virginia Houk  
Notary Public      Virginia Houk

My Commission Expires:

March 15, 1975

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ENABLING DECLARATION

ESTABLISHING A PLAN FOR  
CONDOMINIUM OWNERSHIP

THIS DECLARATION, made this 5th day of October, 1973,  
by FALENDER HOMES CORP./INDIANA (the "Declarant"),

W I T N E S S E S

A. Declarant is the sole owner of the fee simple title to the parcel of real estate in Marion County, Indiana, described in Exhibit "A", attached hereto and made a part hereof, and which is designated therein as the "Condominium Property".

B. Declarant, by the execution of this Declaration hereby creates a condominium upon the Real Estate subject to the provisions of the Indiana Horizontal Property Act, hereinafter called the "Act") and the terms and conditions of this Declaration.

C. The property subject to this Condominium may be referred to as The Arbora Horizontal Property Regime.

ARTICLE I

DESCRIPTIONS AND ESTABLISHMENT OF FREEHOLD ESTATES

Section 1.1. Survey Descriptions. Exhibit "A" consists of a survey of the land subjected to this Condominium, and also shows certain adjacent property owned by the Declarant that may be annexed to this Condominium as hereinafter provided. A Site Plan of the land made part of this Condominium, showing the layout, location, identification, numbers and letters, and dimensions of all of the Homes in the Condominium is attached hereto as Exhibit "B". Plans of each Home, and of each building

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in the Condominium, together with representative elevations of the Buildings, are attached hereto as Exhibit "C".

Section 1.2 Establishment of Freehold Estates. Each such separately numbered unit is hereby established as a separate freehold estate, and each such unit shall hereinafter be referred to as a "Home". As used herein Home shall mean "apartment" or "condominium parcel" as defined under the Act.

Section 1.3. Boundaries of Homes. The boundaries of each Home shall be as shown on the Plans and shall extend to the outside (exterior surface) of perimeter exterior walls and to the center line of all common or partition exterior walls. The upper boundaries of each Home shall extend to the exterior surface of the roof over such Home and the lower surface of the Home shall extend through the floor surfaces of the Home to the underlying land. The Home shall also include the garages assigned to the Homes as shown on Exhibit "B". If any Horizontal or Vertical boundary line as shown on the Plans does not coincide with the actual location of the respective wall or roof surface of the Home because of inexactness of construction, settling after construction, or for any other reasons, the boundary lines of each Home shall be deemed to be and shall be treated for purposes of occupancy, possession, maintenance, use and enjoyment, as in accordance with the actual existing construction and/or condition. In each case permanent easements for his exclusive use shall exist in favor of the Owner of each Home in and to the space or structural elements lying outside of the apparent boundary of the Home, but within and/or including the appropriate wall or roof surfaces of the Home. All gutters, downspouts, meters, meter pits, exterior trim, and appurtenances located on the exterior of a Home shall be a part of the Home.

Section 1.4. Common Areas. The remainder of the land and improvements subjected to this Declaration shall be "Common Areas" which term shall include all "Common Elements" and all "Common Areas and Facilities" as those terms are used in the Act, and it includes all personal property owned by the Association hereinafter referred to, and any and all real or personal property leased by the Association.

The Common Areas, other than any Limited Common Areas, shall be available to all the Homeowners, and shall include but not be limited to, all driveways and parking areas, lawn areas and such recreational facilities as may be provided. All pipes, wires, ducts, conduits and utility lines located in any walls, ceilings or floors of a Home, and any equipment, stairs or similar items which serve any other Home or any common area shall be part of the Common Areas. The Homeowners Association, hereinafter referred to, shall have an easement thereto, and it shall have the right, at reasonable times and at any time in case of emergency, to enter into all Homes and, to the extent necessary, to enter or go into any walls, floors, or ceilings of a Home to get to any such pipes, wires, ducts, conduits and utility lines, or to any other Common Areas. The Homeowners Association shall repair any damage done to any Home as a result of an exercise of their right.

Section 1.5. Ownership of Common Areas and Percentage Interest. Each Owner shall have an undivided interest in the Common Areas as tenants in common with all other Owners, equal to his Home's Percentage Interest, which interest shall include the right to use such Common Areas subject to any rules and regulations governing such use as may be adopted by the Declarant or the Association. Each Home's Percentage Interest is dependent upon and will vary according to the number of the additional Homes that may be annexed to and made a part of this Condominium.

Each Home shall have a percentage interest in Common Areas of this Condominium which shall be equal to the percentage derived by dividing one (1) by the total number of Homes in



the Condominium.

Section 1.6. Appurtenances to Each Home. The Owner of each Home shall own in the Condominium which are appurtenant to and belong to his Home, including, but not limited to, the items listed below which are appurtenant to several "Homes". No such appurtenances may be severed from the Home and such appurtenances shall pass with the transfer of title to a Home.

(a) Common Areas. Each Home shall be entitled to its percentage interest in the Common Areas as an appurtenance thereto.

(b) Automobile Parking. The Common Areas include parking areas, other than garages which will be part of the Homes. Parking spaces will be subject to regulation by the Association, described in Section 2.1 below.

(c) Association Membership. The membership of each Homeowner in the Association, which term as used in this Declaration shall mean the Association described in Section 2.1 below, and the interest of each Homeowner in the fund and assets held by the Association.

(d) Patios. Each Home shall have the use of adjoining patios as designated in Exhibit "C" which patios shall be a Limited Common Area restricted to the use of such Home.

(e) Land. The land in the Condominium shall be a Common Area, but the land underlying each Home shall be a Limited Common Area restricted to the use of such Home.

Section 1.7. Limited Common Areas. Limited Common Areas and Facilities reserved for the exclusive use of Homeowners, their families, servants and invitees, are the paved approach from the curb to the dwelling, the front porch or stoop, and the patios (within the fence lines) attached to the Home, and such other Common Areas as may be designated Limited Common Areas and assigned to the use of one or more Homeowners. The Limited Common Areas and Facilities, here made appurtenant to the respective dwellings, shall not be altered, diminished, or enlarged by any custom or practice of the owners and their neighbors. Limited Common Areas and Facilities shall not be construed or interpreted to be separate and apart from Common Areas and Facilities, but shall only be limited with respect to the reserved use thereof to one or more Homes. The walks between two Homes shall be Limited Common Areas for the use of the Owners of both Homes.

Section 1.8 Encroachments. If any portion of the Common Areas shall encroach upon a Home, or any Home shall encroach upon another Home, then a valid easement shall exist, as hereinafter set forth. If any Home is partially or totally destroyed, and then rebuilt, the Owners of the Home agree that any unintended encroachment upon the Common Areas due to the construction shall be permitted and that a valid easement for such encroachment and the maintenance thereof shall exist. If a Home shall encroach upon any Common Area or upon any other Home by reason of the original construction, or by the non-purposeful or non-negligent act of the Owner, then an easement appurtenant to such encroachment shall exist. If any Common Areas shall encroach upon any Home by reason of original construction or by the non-purposeful or non-negligent act of the Association or of the original developer, then an easement appurtenant to such Common Areas for such encroachment shall exist so long as such encroachment shall exist. If there should be any conflicting easements hereunder, the easement of the Homeowner shall be superior.

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Section 1.9. Supplemental Plot Plans.

The Association and the Declarant each shall have the right, at any time and from time to time, to cause to be prepared and filed of record, supplements or amendments to the Site Plan of the Condominium (Exhibit "B" hereto) in order to show the location of driveways, parking areas, other land improvements, underground pipes, conduits, or lines, utility lines, mains, and easements, and the location of any additional improvements located in the Condominium, for the purpose of establishing of record their location and the fact of their existence. Supplemental Plot Plans will not be used to change the location of any Home.

ARTICLE II

Association

Section 2.1. Homeowner's Association.

Subject to the rights of the Declarant reserved in Section 5.2 below,

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operation and management of the Condominium shall be by The Arbors Association, Inc., a corporation organized as a not-for-profit corporation under the laws of the State of Indiana, which shall fulfill its duties and functions pursuant to the following provisions of this Article II. A copy of the Articles of Incorporation of the Association is attached hereto as Exhibit "D". A copy of the By-Laws of the Association is attached hereto as Exhibit "E".

Section 2.2. Membership in Association. The owner of each Home shall, automatically upon becoming the owner of the Home, be a member of the Association, and shall remain a member of the Association until such time as their ownership ceases for any reason. Membership in the Association shall thus be an appurtenance to each Home in the Condominium and shall pass with the conveyance of the Home to each successive Home owner. Each Homeowner by the acceptance of a deed or other instrument evidencing his ownership interest, shall accept membership in the Association, and shall be subject to the power and authority of the Association.

Section 2.3. Voting Percentage. The owners of each Home as a member shall be entitled to a percentage vote in the Association's affairs equal to its percentage interest in the Common Areas from time to time. The owners of each Home shall collectively be entitled to vote their then percentage interest in the Common Areas. Whenever hereunder the owners are to vote on any matter, such vote shall be by their percentage interest and wherever hereunder a specified percentage of the owners is required, such percentage shall mean votes cast adding up to that percentage, or owners having such an aggregate percentage interest. If any additional areas are annexed to this Condominium, the Homeowners owning Homes in such annexed areas shall also be entitled to a vote in the affairs of the Association equal to their percentage interest in the Common Areas. The By-Laws may provide a procedure for holding such vote, which method may be based upon each Home's unit of interest.

Section 2.4. Board of Directors. The Members shall elect a Board of Directors of the Association annually as prescribed by the By-Laws. The Board of Directors shall manage the affairs of the Association, except that so long as the Declarant owns any Home in the Condominium, there shall be no increases in the annual assessment nor shall there be any special assessments without the Declarant's prior approval.

Section 2.5. Compliance with Documents and Rules and Regulations. The Association shall have the power to promulgate rules and regulations governing the use of the Condominium property including all Common Areas and including the imposition of reasonable rules and regulations for the use of the Homes by Home owners for the common benefit of all Home owners. Each Home owner, tenant, or occupant of a Home, and their guests and invitees, shall comply with the provisions of the Declaration, the By-Laws, and the rules and regulations and the Decisions of the Association or its representatives, as lawfully amended from time to time, and the failure to comply with any such provisions, decisions or regulations, shall be grounds for an action to recover sums due, for damages, or for injunctive relief. So long as the Declarant owns any Home in the Condominium, the powers of the Association set forth herein shall be subject to the rights of the Declarant reserved in Article V hereof.

Section 2.6. Easement of Association. The Association shall have an easement for access to all Common Areas located within a Home, including all pipes, wires, ducts, shafts, conduits, lines, and any structural element serving more than one Home, or serving any other Common Area. This easement is also reserved for the benefit of the Declarant so long as Declarant owns any Home in the Condominium.

Section 2.7. Delegation by Association. Nothing in this Declaration shall limit the discretion of the Board of Directors of the Association to delegate authority to any officer, manager or a management agent, except the power to decide disputes between or among owners of Homes located on the property.

Section 2.8. Professional Management. The Association, upon and after assuming control of the Common Areas of the Condominium, shall contract with a reputable management service for the provision of accounting, bookkeeping and managerial services to include the preparation of, notices for and collection of all assessments and the preparation of notices for all meetings or of any other kind required by this Declaration, and the performance of such other services as the Board of Directors may designate. The expenses for such managerial services shall be Common Expenses. Nothing hereunder shall be deemed to require the employment of a resident agent for the project, however.

ARTICLE III

Use Restrictions

Section 3.1. Residential Purposes. All Homes contemplated in the Condominium shall be, and the same hereby are, restricted exclusively to residential use. All Homes shall be of new construction. They may be connected or they may be separated from other Homes. No structures of a temporary character, trailer, basement, tent, shack, carport, garage, barn, or other outbuilding shall be used as a residence on any portion of the property at any time either temporarily or permanently. Nothing shall be done or permitted in any Home which would structurally change any Building, unless first approved in writing by the Board of Directors.

Section 3.2. Construction and Sale Period. Notwithstanding any provisions contained herein to the contrary, it shall be expressly permissible for the Declarant or the builder of said Homes and structures to maintain, during the period of construction and sale of said Homes, upon such portion of the property as the Declarant may deem necessary, such

facilities as in the sole opinion of the Declarant may be reasonably required, or be convenient or incidental to the construction and sale of the said Homes, including, but without limitation, storage areas, construction yards, signs, model residences, construction offices, sales offices and business offices.

Section 3.3. Outside Planting. No Owner shall plant any trees, landscaping or do any gardening in any Common Areas or areas other than patio areas except with express permission from the Board.

Section 3.4. Animals and Pets. No animals, live-stock or poultry of any kind shall be raised, bred or kept on any part of the property, except that dogs, cats or other household pets may be kept by the respective owners in their respective Homes provided that they are not kept, bred or maintained for any commercial purposes and do not endanger the health or, in the sole discretion of the Association's Board of Directors, unreasonably disturb the owner of any Home or any resident thereof.

Section 3.5. Signs and Business Activities. No advertising signs, (other than normal "for sale" signs), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on the property, nor shall the property be used in any way or for any purpose which may endanger the health of or unreasonably disturb the owner of any Home or any resident thereof. No business activities of any kind whatever shall be conducted in any building or in any portion of the property; provided, however, the foregoing covenants shall not apply to the business activities, signs, and billboards of the Declarant, its agents or assigns during the construction and sale period.

Section 3.6. Clotheslines, Garbage Cans,

Etc. All clotheslines, equipment, garbage cans, service yards, woodpiles and storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring residences and streets. All rubbish, trash and garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon. All clotheslines shall be confined to patio areas.

Section 3.7. Patios and other Common Areas. Except

in the individual patio adjacent to a Home, no planting or gardening shall be done, and no fences, hedges, or walls shall be erected or maintained upon the property except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Association's Board of Directors or their designated representatives. The height and types of planting permitted in a patio may be regulated by the Association. Patio areas shall not be covered nor shall any awnings or similar structures be placed over patios, unless prior written consent is obtained from the Board of Directors. If any gates are installed to the patio areas, they shall not be locked or otherwise constructed in a manner that will prevent access by any persons reading meters for utility companies. It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the mutual benefit of all owners in the Condominium and is necessary for the protection of said Owner.

Section 3.8. Exterior Antennae. Without prior

written approval and authorization of the Board of Directors no exterior television or radio antennae of any sort shall be placed, allowed or maintained upon any portion of the improvements to be located upon the property nor upon any structure situated upon the property other than an aerial for a master antenna system, should any such master system or systems be utilized and require any such exterior antenna.



Section 3.9. Leasing of Residences. Entire residences may be rented provided the occupancy is not for less than one (1) month and such occupancy is only by the lessee and his immediate family or as may be approved or otherwise provided for by the Association's Board of Directors. No room may be rented and no transient tenants accommodated. This Section 3.9 shall not apply, however, to any lease or leases which may be entered into by the Declarant.

Section 3.10. Delegation of Use. Any Homeowner may delegate, in accordance with the By-Laws, his rights of enjoyment in the common areas and facilities to the members of his family, his tenants, or contract purchasers who reside on the property, but only to such person.

Section 3.11. Rights of Homeowners. Every Homeowner shall have the right and easement of enjoyment in and to the Common Areas, which shall be appurtenant to, and shall pass with the title to every Home, subject to the following provisions:

(a) The right of the Association to charge reasonable admission, maintenance, and other fees for the use of any facilities situated upon the Common Areas, and to make other charges as herein provided.

(b) The right of the Association to suspend the voting rights and right to use Common Areas and facilities by any Homeowner for any period in which any assessment against his Home remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules or regulations.

(c) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility, for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of the Homeowners agreeing to such dedication or transfer has been recorded, although the Board of Directors of the Association may grant underground utility easements without the necessity of Homeowner approval.

(d) The right of the Association to restrict portions of the Common Areas for parking, or for other uses that may be equitable among the members.

(e) The right of the Association to adopt reasonable rules and regulations governing the use of the Common Areas, or which otherwise are deemed by it to be for the common good of all Homeowners.

Section 3.12. Noise and Nuisance. No noxious or offensive activity shall be carried on in any apartment unit, nor shall anything be done or be permitted to remain in any apartment unit which may be or become a nuisance or annoyance to the other co-owners. Residents of The Arbors shall exercise extreme care not to disturb other residents with excessive noise or the use of radios, musical instruments, telephone, amplifiers and speakers.

ARTICLE IV

Common Expense

73 79689 Section 4.1. Common Expenses. Common Expenses shall include all expenses of administration, expense of

insurance, maintenance, operation, repair and betterment of the Common Areas; rent, maintenance and other costs relating to recreational facilities; and any other costs or expenses declared to be Common Expenses under this Declaration, the Articles of Incorporation and the By-Laws; and any other valid charge against the Condominium property as a whole or which is duly adopted by and voted on by the Association. Common Expenses shall include any special assessments voted by the members of the Association.

Section 4.2. Sharing of Common Expenses. Each of the separate Homeowners shall share in any profits and be liable for a share of the Common Expenses in proportion to their percentage interest in the Common Areas. The Board of Directors of the Association may vote to round off the monthly payment of Common Expenses assessed against each Home to the nearest even multiple of One Dollar (\$1.00) or of Fifty Cents (\$.50), or it may vote to round off such monthly assessment to the next higher even multiple of Fifty Cents (\$.50).

Section 4.3. Common Expenses After Annexation of Additional Areas. If and as areas are annexed and become subject to this Declaration, the Common Expenses relating to all Common Areas shall thereafter be divided among all the Homeowners according to their then percentage interests, but subject to the provisions of Section 4.2 above.

Section 4.4. No Exemptions. No owner of a Home may exempt himself from liability for his contribution towards the Common Expenses by waiver of the use and enjoyment of any of the Common Areas or by the abandonment of his Home.

Section 4.5. Budget. A budget of all anticipated common expenses, including capital expenditures and/or reserves if any, shall be prepared for each fiscal year of the Association. Such budget shall be reviewed by the Homeowners in advance of the beginning of the fiscal year.

Section 4.6. Annual and Special Assessments.

Common Expenses shall be assessed to the Homeowners, either as an Annual Assessment, or as a Special Assessment, proportionately in accordance with their respective percentage interest in the Common Areas, as set forth below:

(a) An Annual Assessment shall be made for each fiscal year of the Association for all normal and usual operating expenses of the Condominium, including reserves. It shall be paid in twelve (12) equal monthly installments and shall be due and payable on the first day of each calendar month. The amount of the Aggregate Annual Assessments shall be equal to the total amount of expense provided for in the annual budget, including reserve items.

(b) Special Assessments may be made for any unusual and/or extraordinary items, including for capital expenditures, and for any unanticipated items. Special Assessments shall be payable in such amounts and at such times as may be provided in the resolution or other formal proposal setting forth the terms of such Special Assessment.

(c) An extra Annual Assessment may be made against any Homes having the use of Limited Common Areas which are not then generally available to all Homeowners equally as a charge for the maintenance and upkeep of such Limited Common Areas, or for any other charges or expenses attributable to such Limited Common Areas. Such assessment may be imposed as a condition to the improvement of such areas. Also if any taxes or assessments are levied on Common Areas and provision is not made therefor in the budget, the annual assessments of all Homes shall be raised proportionately to cover such taxes.

(d) The annual and special assessments, together with interest, costs and reasonable attorneys fees, shall be a continuing lien on the property upon which each such assessment is made as each installment thereof becomes payable. Each such assessment, together with interest, costs and reasonable attorneys fees, shall also be the personal obligation of the person who was the owner of the Home at the time the assessment was payable.

Section 4.7. Non-Use for Home Maintenance. Except as otherwise provided herein and in the By-laws, each Homeowner shall be responsible for the maintenance, repair, decoration and replacement within his own Home, and none of the assessments levied by the Association shall be used for that purpose. The Association may perform repair work on a Home, if a Homeowner shall fail to maintain a Home, and charge the cost thereof to the Owner, which cost shall be secured by the lien of the Association on such Home.

Section 4.8. Limitation on Assessments. During the fiscal year ending April 30, 1974, the maximum Annual Assessment shall be \$ 552.00 per year payable in monthly installments of \$ 46.00 plus any additional assessment imposed pursuant to Section 4.6(c) above.

So long as the Declarant manages the Condominium the Annual Assessment shall not be increased more than a cumulative average of 6 percent per year unless such larger increase is approved by a vote of 67% of the members voting in person or by proxy at a meeting duly held after the members have been notified that such meeting would consider the budget for the following year and that an increase averaging more than 6% per year is likely. Such maximum percentage increase shall be computed by compounding the annual assessment during the fiscal year referred to above at the rate of 6% per year until the then current fiscal year.

Section 4.9. Procedure for Special Assessments. In addition to the annual assessments authorized above, the Association may levy in any year special assessments for the purpose of defraying, in whole or in part, the cost of any construction, repair or replacement of a capital improvement upon the Common

Areas including fixtures and personal property relating thereto, and any other Common Expenses of an unusual, extraordinary, or unanticipated nature, providing that any such assessment shall have the assent of 67% of the votes of the members of the Association who are voting in person or by proxy at a meeting called for this purpose. However, Special Assessments required because of an insufficiency of insurance shall not be subject to any vote by the Homeowners.

Section 4.10. Notice of Meetings for Assessments.

Written notice of any meeting called for the purpose of taking any action authorized under Section 4.6(b) and 4.9 above, shall be sent to all members not less than fourteen (14) days, nor more than sixty (60) days in advance of the meeting. At the first such meeting there being present members or proxies entitled to cast sixty percent (60%) of all votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 4.11. Commencement of Assessments. Annual Assessments provided for herein shall be made for each fiscal year of the Association, and the first monthly payment of each annual assessment shall be due on the first day of the first month of each fiscal year. The annual assessment for the fiscal year in which occurs the conveyance of the first Home in the Condominium to a Homeowner shall be established by the Declarant. No Home shall be liable for payments of the annual assessment until the Home is conveyed by the Declarant to a Homeowner, or is leased by Declarant. If the Declarant shall lease a Home then the lessee, so long as he is leasing such Home from the Declarant shall have the right to use all Common Areas to the same extent as if he were a Homeowner under this Declaration. The Homeowner shall pay a prorated monthly assessment for the month in which conveyance occurs. The Board of Directors, or the Declarant, if it exercises its reserved rights therefor under Article V, shall if possible

fix the annual assessment against each Home at least seven (7) days before the beginning of the fiscal year for which assessed. Written notice of the amount of such annual assessment shall be sent to all Homeowners subject thereto. The Association shall, upon due request and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a designated Home have been paid, and if not, the amount of the unpaid and delinquent assessment. If there are any special assessments, such certificates shall include the same information with respect to the special assessment.

Section 4.12. Delinquent Assessment. Any assessment not paid within thirty (30) days after the date due shall bear interest from the date when due, at the rate of eight percent (8%) per annum, or such other interest rate as the Board of Directors of the Association may set. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property.

Section 4.13. Lien of Assessments. All sums assessed by the Association, but unpaid, for the share of the Common Expenses chargeable to a Home together with attorneys fees and the costs of collection thereof, shall constitute a lien on such Home prior to all other liens, except only:

- (a) Tax liens on the Home in favor of any assessing unit or special district; and
- (b) All sums unpaid on the first mortgage of record.

The sale or transfer of any Home by foreclosure or by deed in lieu of foreclosure by or to the First Mortgagee shall not be subject to lien of such assessments for the period prior to such foreclosure or deed in lieu of foreclosure. The lien for sums assessed may be foreclosed by a suit by the manager or Board of Directors acting on behalf of the Owners of such Homes in like manner as a mortgagee of the property. In any such foreclosure the Homeowner shall be required to pay a reasonable rental for the family unit, and the plaintiff in such foreclosure action shall be entitled to the appointment of a

receiver to collect same. The Manager or Board of Directors acting on behalf of the owners or the Association shall have power to bid in the unit at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosing or waiving the lien securing the same. Any foreclosure sale or deed in lieu thereof, shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No such sale or transfer shall relieve the Home from liability for any assessment thereafter becoming due or from the lien thereof.

Section 4.14. Liability of Grantee. In a voluntary conveyance of a Home the grantee of the Home shall be jointly and severally liable with the grantor for all unpaid assessments by the Association against the latter for his share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the manager or Board of Directors of the Association, as the case may be, setting forth the amount of the unpaid assessments against the grantor due the Association if he shall so request, and once having been furnished with such a statement, such person shall not be liable for, nor shall the Home conveyed be subject to a lien for, any unpaid assessments made by the Association against the grantor in excess of the amount therein set forth, plus costs of collection of such sums, if applicable.



ARTICLE V

Declarant's Rights

Section 5.1. Use of Property. Declarant reserves the right to grant easements for utilities and other reasonable purposes across Common Areas, to use any of the Homes as models and to sell, assign or conduct other businesses in connection with the construction and development of the project from any of such Homes prior to their being sold. This reservation of right or privilege in the Declarant includes, but is not limited to, the right to maintain a model, erect signs, maintain an office, staff the office with employees, and to use any and all of the Common Areas and to show Homes then unsold. Any improvements placed on the lands of the Condominium for the purpose of such sales, such as signs, sales and other signs, telephones, or any other promotional items shall not be considered Common Areas nor attachments to the property, but shall remain the property of the Declarant and may be removed at any time convenient to the Declarant. The Declarant retains the right to be considered an owner of any Home that remains unsold. Declarant also reserves the right to make prudent changes in the location or manner of construction of buildings and other improvements.

Section 5.2. Management. Declarant shall have the exclusive right to manage the Condominium and to perform all the functions of the Condominium until it shall have sold and conveyed or leased 88 Homes in the Condominium and for the balance of the fiscal year in which the 88th Home is conveyed or leased, but not more than 7 years from the date of recording of this Declaration. Declarant's right to manage the Condominium shall be to manage the Common Areas, to adopt rules and regulations, to set annual assessments subject to the limitations herein contained, and to adopt the rules and regulations governing the use of the Condominium. Such rights shall be subject to the following.

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(a) Declarant shall manage the Common Areas and it shall have the right to assess the Homeowners sums equal to the amount set forth in the Declaration for the annual assessment during the year in which the first conveyance of a Home is made to a Homeowner. After the first year in which a conveyance is made to a Homeowner, Declarant may increase the amount of the annual assessment to the Homeowners, provided such increase shall not exceed the maximum percentage increase permitted without a vote of the members in Section 4.8 above, unless the members of the Association shall approve such increase.

(b) Declarant shall have the right to transfer the management of the Condominium to the Association at any time it believes that the Association is able to manage the Condominium without undue difficulty. Declarant agrees, however, to continue to manage the Condominium property at the same per unit cost as had been established, for the balance of the fiscal year in which the Declarant terminates its right to manage the Condominium. If Declarant shall no longer be willing to manage the Condominium, and Common Areas, it shall notify the Association at least sixty (60) days prior to the end of the fiscal year, or Declarant shall, at the option of the Association, be obligated to manage the Common Areas for the following fiscal year. So long as the management of the Association is being borne by the Declarant, the rights of the Association to manage the property and set assessments shall be suspended.

Section 5.3. Declarant's Easement for Adjoining Property. Declarant reserves the right to grant an easement over the driveways and walks of the Condominium in order to provide access through the Condominium to and from the Declarant's property adjoining the Condominium for the benefit of the owners of property interests in such Property, their tenants, invitees and guests. Declarant further reserves the right to permit owners of all or any portion of the adjoining property, their tenants, invitees and guests, to use the recreational facilities of the Condominium, provided that such persons pay a pro rata share of the operating and maintenance cost of such recreational facilities; that all persons having the right to use the same shall abide by the reasonable rules and regulations adopted by the Association governing such use; and that the number of families permitted to use such recreational facilities shall not exceed 111. Such rights shall not be limited to the Adjacent Property as herein defined.

ARTICLE VI

Rights and Liabilities of Homeowners

Section 6.1. Separate Mortgages of Units. Each owner of a Home shall have the right to mortgage or encumber his own Home together with his respective ownership interest in the Common Areas. No owner of a Home shall have the right or authority to mortgage or otherwise encumber in any manner whatsoever the property or any part thereof except his own Home and its percentage interest in the Common Areas as aforesaid.

Section 6.2 Separate Real Estate Taxes. Real Estate Taxes are to be separately taxed to the owner of each Home, including his share of ownership in the Common Areas, as provided in the Act. If for any year such taxes are not separately taxed to the owners of the Homes, but are taxed on the property as a whole, then each Homeowner shall pay his proportionate share thereof in accordance with his respective percentage interest in the Common Areas.

Section 6.3. Maintenance by Homeowners. The owner of each Home shall furnish and be responsible for, at his own expense, all the maintenance, repairs and replacements within his Home, including the heating and air conditioning system and any partitions and interior walls. Maintenance, repairs, and replacements of the refrigerators, ranges, and other kitchen appliances and lighting fixtures shall be at the expense of each Homeowner.

If due to the negligent act or omissions of a Homeowner or of a member of his family or household pet or of a guest or other occupant or visitor of such owner, damage shall be caused to the Common Areas or to a Home owned by others, or if maintenance, repairs or replacements shall be required which would otherwise be at the Common Expense, then such Homeowner shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Association, unless such loss is covered by the Association's insurance with such policy having a waiver of subrogation clause. Maintenance, repairs and replacements to the Common Areas or the Homes shall be subject to the rules and regulations of the Association.

To the extent that equipment, facilities and fixtures within any Home shall be connected to similar equipment, facilities or fixtures affecting or serving other Homes or any Common Areas, then the use thereof by the owner of such Home shall be subject to the rules and regulations of the Association. The authorized representatives of the Association or Board of Directors or the manager or managing agent for the Association, shall be entitled to reasonable access to any Home as may be required in connection with maintenance, repairs or replacements of or to the Common

Areas or any part thereof, or any equipment, facilities or fixtures affecting or serving other Homes or any Common Areas.

The owner of each Home shall be responsible for his maintenance, repair and replacement of all windows in his Home and also the doors leading into the Home.

Section 6.4. Decorating. The owner of each Home shall furnish and be responsible for, at his own expense, all of the decorating within his Home from time to time, including painting, wall papering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lamps and other furnishings and interior decorating. The owner of each Home shall be entitled to the exclusive use of the interior surfaces of the perimeter walls, floors and ceilings, and such owner shall maintain such interior surfaces in good condition at his sole expense. Decorating of Common Areas (other than the interior surfaces within a Home as provided above), and any re-decorating of a Home to the extent made necessary by any damage or existing decorating of such Homes caused by maintenance, repair, or replacement work on the Common Areas by the Association, shall be furnished by the Association as a part of the Common Expenses. The Association may also repair, and maintain Limited Common Areas, even though the same are assigned to individual Homes.

ARTICLE VII

Maintenance, Control and Insurance

Section 7.1. Maintenance of Common Areas. The Association shall be responsible for the maintenance, repair and replacement of all the Common Areas of the Condominium. The Association shall also be responsible for such maintenance, repairs, and replacements as may be required for the bringing of utility services to the Homes. All maintenance, repairs and replacements required of the Association shall be a Common Expense. However, the Association, or the Declarant, may provide that all or certain of the Limited Common Areas shall be maintained by the Homeowners rather than the Association. In any event the Association shall maintain all unfenced lawn areas.

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Section 7.2. Maintenance Obligations of Association with Respect to Homes. The Association shall maintain, restore, and replace the following portions of a Home, whether the same be damaged or destroyed by ordinary wear and tear, fire, destruction, or in any other manner:

1. The exterior of any building, including the exterior materials, but excluding the doors, windows and window frames. However, the Association shall paint garage doors.
2. The roofs of the Homes, which shall include any portion of a Home located above the upper surface of the rafters. The Association shall also maintain, replace and restore any structural elements of the building or roof located below such plane or planes, provided, however, that interior walls shall not be deemed a structural element as that term is used herein.
3. All gutters, downspouts and exterior trim, located on the exterior of a building shall be maintained, repaired and replaced by the Association as a Common Expense even if owned by the Homeowners. The Association shall maintain the exterior of patios. The Homeowner shall maintain the concrete areas inside his patios.
4. The Association shall repair and restore any damage it may have done resulting from its access and any activities within any portion of a Home by the Association or its agents and employees. The cost of all such repairs by the Association shall be charged as a Common Expense and prorated among all the Owners, except to the extent that such repair work is caused by or necessitated by the negligence of a Homeowner or a member of his family, or his guests or invitees, in which case the Homeowner shall be obligated to reimburse the Association for the cost of such repairs as provided in Section 6.3 of this Declaration.
5. The Association may permit its employees to do minor repairs and service work in and to a Home provided the same services are generally available to all Homeowners. However, it may make reasonable charges for such services and/or it may wholly prohibit or otherwise restrict rendering such services.

Section 7.3. Architectural Control. No building, fence, wall or other structure, shall be commenced, erected, or maintained upon the properties nor shall any exterior addition to or change or alteration thereon other than by the Declarant or its successors or assigns, be made until the plans and specifications showing the nature, kind, shape, height, material, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee appointed by the Board. The Association may impose reasonable restrictions on the manner of performance of such work, time limits for its completion, and other restrictions, either as a condition of its approval, or otherwise. The Association may also require any such work to be done by a bonded contractor. If the Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Common Areas will remain undivided; no owner shall bring any action for partition, it being agreed that this restriction is necessary in order to preserve the rights of the owners with respect to the operation and management of the Condominium. Also the Association shall have an easement to all Common Areas including Common areas located within any walls of any structures or Homes located on the property subject to this Declaration, and the Association shall have no liability whatsoever for entering any portion of such easement areas, including cutting through the walls of any unit or similar damage to a Home, provided, however, that the

Association shall repair any damages committed by it to a Home, in a reasonable manner, and at its own expense. Any change in the appearance or the color or any part of the exterior of a Home shall be deemed a change thereto and shall require the approval therefor as above provided.

Section 7.4. Insurance. The Association, acting through its Board of Directors, shall from time to time obtain fire and extended coverage insurance insuring the real property in the Condominium in an amount equal to the then maximum insurable value thereof. The Association shall review the amounts of such insurance not less often than annually, and shall purchase such additional insurance as is necessary to provide adequate insurance indemnity. Such insurance coverage shall be for the benefit of each Owner, and, if applicable, the Owner's Mortgagee. The proceeds shall be payable to the Association or the Board of Directors, who shall hold such proceeds as trustee for the individual Owners and Mortgagees. The interest of each Owner and his Mortgagee in such proceeds shall be as provided in the By-Laws.

The Association shall also obtain comprehensive public liability insurance for the Common Areas in such limits as the Board of Directors shall deem appropriate, together with Workmen's Compensation Insurance and other liability insurance, if deemed necessary or appropriate by the Board of Directors. Such insurance shall inure to the benefit of each individual Owner, the Association, the Board of Directors, and any manager or company acting on behalf of the Association. All such insurance policies shall include a provision that Owners or lessees of Homes, even though members of the Association, shall in appropriate circumstances be able to recover damages as claimants under such insurance.

The premiums for all such insurance shall be paid by the Association as part of the Common Expenses.



Each Owner shall have the right to purchase any additional insurance he may deem necessary, and each Owner shall be solely responsible for insurance on the contents of his own Home, including all floor and wall coverings, and fixtures and betterments installed by the Owner, and fixtures and betterments stored elsewhere on the Condominium, as well as insurance coverage for additional living expense as may be occasioned by the rebuilding of any Homes as may be required under Section 10.4. It shall be the individual responsibility of each Owner, at his own expense, to provide as he sees fit, homeowner's liability insurance, theft and other insurance covering personal property damage and loss.

ARTICLE VIII

Section 8.1. Disputes. Matters of dispute or disagreement between owners or with respect to interpretation of the application of the provisions of this Declaration or By-Laws or any rules or regulations promulgated by the Association, shall be determined by the Board of Directors of the Association, which determination shall be final and binding upon all Homeowners. If the Association shall deem it to be advisable, it shall have the power to employ experts to advise it in the settling of disputes and to charge the cost thereof as a Common Expense.

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ARTICLE IX

Annexation

Section 9.1. Declarant's Right of Annexation.

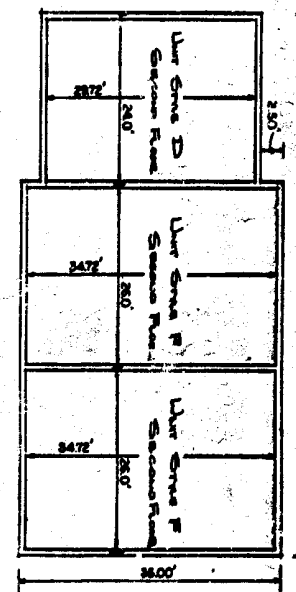
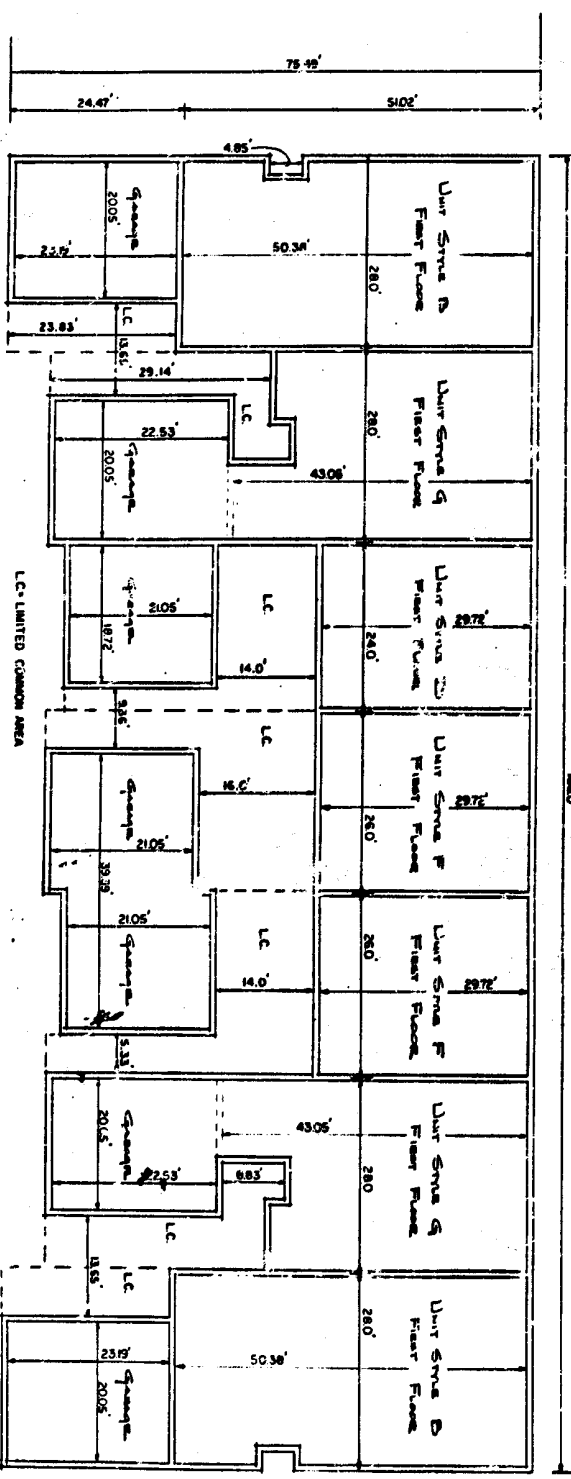
Declarant reserves for a period of seven (7) years, the right to annex to this Condominium, all or any part of the Adjacent Property. Such annexation may be accomplished in one or more phases, and may include all or any part of the Adjacent Property. Declarant agrees, however, that there shall not be more than a total of 111 Homes included in this Condominium.

Section 9.2. Reserved Power of Attorney. The

Deed conveying each Home may reserve or cause to be granted a power of attorney in the Declarant to annex such additional areas to this Condominium, and to file Amendments and/or Supplements to the Declaration to accomplish the annexation of such areas hereto. Such Amendments or Supplements to the Declaration shall also set forth the interest of each Homeowner in the Common Areas so that each Homeowner will own a percentage interest in all Common Areas in accordance with the provisions of Section 1.5 above.

Section 9.3. Reallocation of Percentage Interests.

The percentage interest in the Common Areas allocated to each Home shall automatically be shifted and reallocated to the extent set forth in each such recorded Supplement or Amendment to the Declaration and upon the recording of each Supplement or Amendment



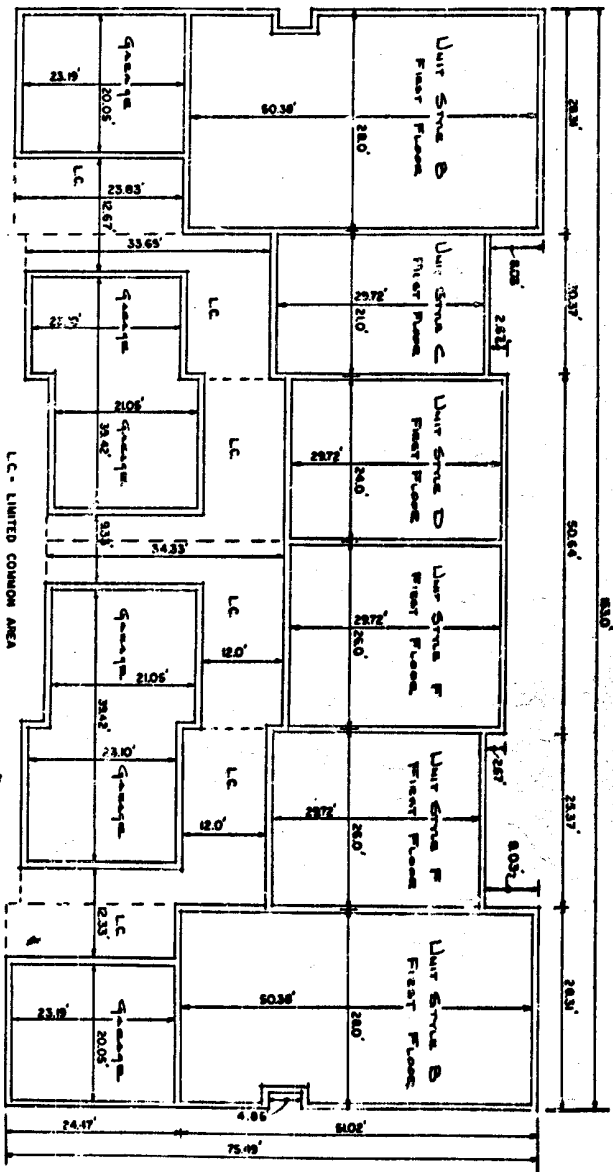
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EXHIBIT "C" PAGE 1

PROJECT	THE ANSORS CONDOMINIUM - PHASE 1
PREPARED FOR	FALENDER HOMES, INC.
TITLE	FLOOR PLAN & ELEVATION
SCALE	1/8" = 1'-0"

DATE	BY	DESCRIPTION

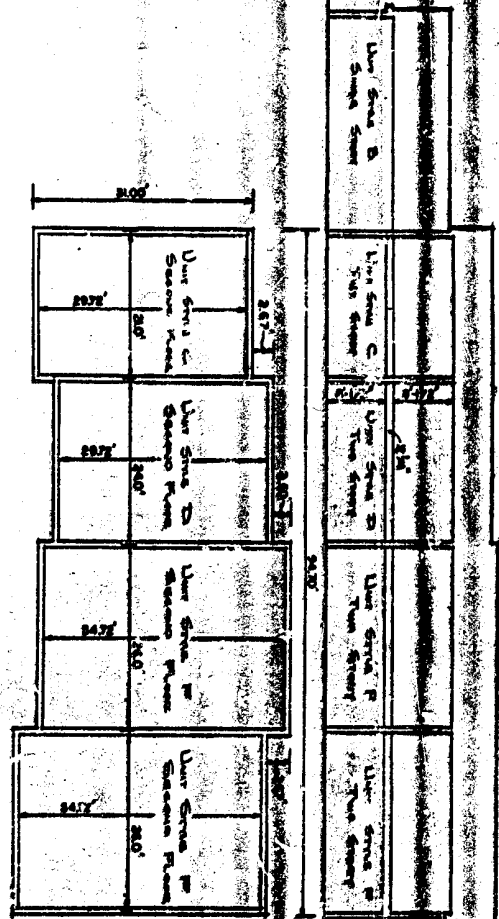
*John J. Schneider*  
 SCHNEIDER ENGINEERING CORPORATION  
 3171 BRIDGE ROAD  
 F.D. BOX 2000



L.C. - LIMITED COMMON AREA

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BUILDING No. 1



73 73685

EXHIBIT "C" PAGE 2

PROJECT: THE ARBORS CONDOMINIUM - PHASE 1  
 PREPARED FOR: PLEASER HOMES, INC.  
 TITLE: FLOOR PLAN & ELEVATION

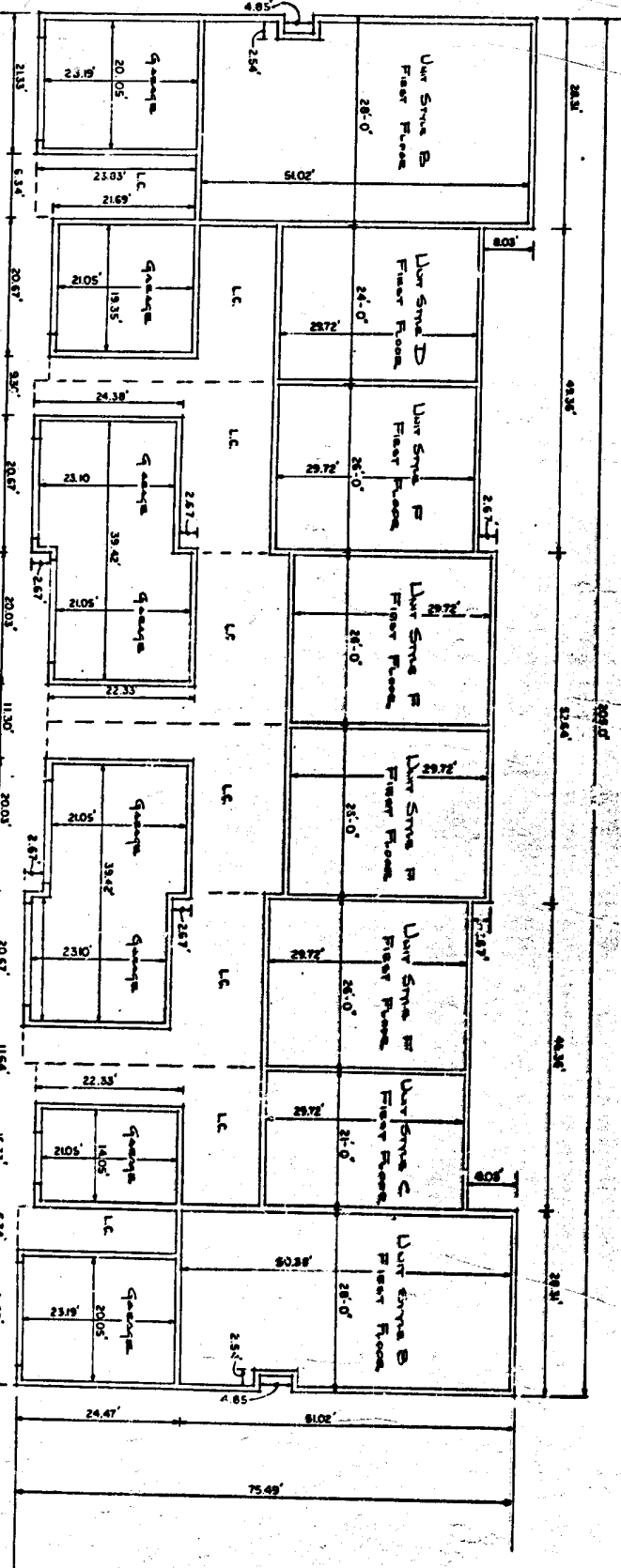
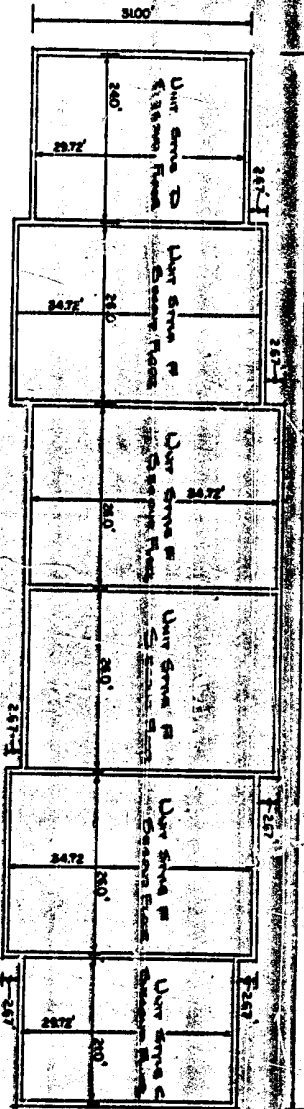
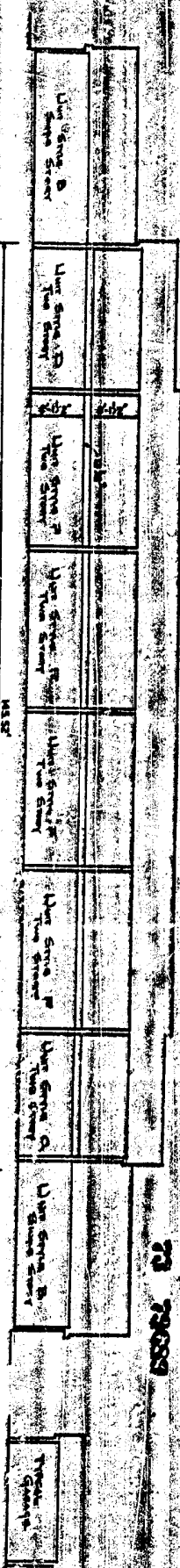
**SCHNEIDER PROMERGING CORPORATION**  
 210 SOUTH 1ST STREET  
 MILWAUKEE, WISCONSIN 53233  
 (414) 224-1100



*John D. Schmidt*

NO.	DATE	BY	REVISION

3



L.C. - LIMITED COMMON AREA

Building No: 9

73 79289

EXHIBIT "C" PAGE 3

PROJECT: THE ARONS CONDOMINIUM - PHASE I

PREPARED BY: FALCERD HOMES, INC.

TITLE: FLOOR PLAN & ELEVATION

SCHEIDER ENGINEERING CORPORATION

REGISTERED PROFESSIONAL ENGINEER

NO. 1111

DATE: 08/20/2008

*[Signature]*

NO.	REVISION

Section 10.3. Amendment. Amendments to this Declaration shall be proposed and adopted in the following manner:

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

(b) Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Directors of the Association or by at least a majority of the Homeowners.

(c) Meeting. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly held in accordance with the provisions of the By-Laws.

(d) Adoptions. During the first twenty (20) year period any proposed amendment to this Declaration must be approved by a vote of not less than ninety percent (90%) of the Homeowners entitled to vote. Thereafter any proposed amendment to this Declaration must be approved by a vote of not less than sixty-seven percent (67%) of the Homeowners entitled to vote. In the event any Home is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as a Homeowner if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions of the By-Laws.

(e) Special Amendments. This Declaration shall not be revoked, or terminated, nor shall any amendment to this Declaration be adopted which changes the provisions of Section 10.4 of this Declaration with respect to reconstruction or repair in the event of fire or casualty, without the unanimous approval of all Homeowners and Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of the By-Laws.



(f) Recording. Each amendment to the Declaration and each Supplemental Declaration shall be executed by the President and Secretary of the Association, or by the Declarant, and shall be recorded in the Office of the Recorder of Marion County, Indiana,

and such amendment shall not become effective until recorded.

Section 10.4. Casualty and Restoration. In the event of damage or destruction of the Condominium by fire or other casualty, the following provisions shall be applicable:

(a) Partial Destruction. In the event that less than two-thirds (2/3) of the Homes are destroyed by the occurrence of fire or other casualty, then the Association shall cause the Condominium to be repaired and restored promptly. The proceeds of the insurance carried by the Association shall be applied to the cost of such restoration. If the insurance proceeds are not adequate to cover the cost of reconstruction, or in the event there are no proceeds, the excess cost of restoring the damage shall be paid by the Homeowners as set forth in the By-Laws. For purposes of the Act, this Section 10.4, and the By-Laws, no Home located in a building other than that in which the fire or other casualty occurs shall be deemed to be directly affected by the damage. If any Owner, or Owners, refuses or fails to make the required payments, the other Owners shall (or the Association, if such other Owners fail) complete the restoration and pay the cost thereof, and the costs attributable to the Owner or Owners who refuse or fail to make such payments at the time required by the Board of Directors shall become a lien on such defaulting Owners' Home and may be foreclosed in the same manner as provided for the lien for common expenses.

(b) Restoration in the Event of Two-Thirds Destruction. In the event that the whole or more than two-thirds (2/3) of the Homes are destroyed by fire or other casualty, then

restoration of the Homes must be approved by a unanimous vote of the Homeowners. If such a vote is not forthcoming, the insurance indemnity shall be delivered to the Owners entitled to it in accordance with the By-Laws. If within 120 days from the date of damage or destruction the restoration of the Homes has not been approved by the Association, the property shall be deemed owned in common by all of the Owners and the provisions of the Act shall apply.

(c) Restoration Defined. Restoration, for purposes of sub-paragraphs (a) and (b) above, shall mean construction or rebuilding of the Homes to the same condition as they existed immediately prior to the destruction and with the same type of architecture.

Section 10.5. Recreation Facilities. It is understood that the Recreation Facilities of the Condominium, including the club house, are designed to accommodate one hundred eleven (111) family units. The Association, and the Declarant, shall have the right to permit families other than the Homeowners, to use such facilities, subject to the following limitations:

(a) The aggregate number of families who shall be authorized to use such facilities in any year, including Homeowners, shall not exceed 111.

(b) Each family permitted to use such facilities, who is not a Homeowner, shall be charged a fair pro rata share of the cost of owning, maintaining and operating such facilities. The Association or the Declarant if it is managing the Condominium may determine the method of designating persons authorized to use such facilities and of collecting other charges for their use of such facilities.

(c) No family who is not a Homeowner shall be given the right to use the Recreational Facilities of the Condominium for longer than one year at a time.

(d) The Association, or the Declarant if it is managing the Condominium may establish reasonable rules and

regulations governing the transfer of the right to use the Recreational Facilities and for identifying the persons having such right.

Section 10.6. Cost and Attorneys' Fees.<sup>(a)</sup> In any proceeding arising because of failure of an Owner to make any payments required or to comply with any provisions of the Declaration, the Act, the By-Laws, or rules and regulations adopted pursuant thereto, as each may be amended from time to time, the Association shall be entitled to recover its costs and reasonable attorneys' fees incurred in connection with such default or failure. Such costs and attorneys' fees shall be secured by the Association's lien on each Home.

Section 10.7. Rights of Mortgagees. If any mortgagee of a Home shall so request, he shall be given notice at least thirty (30) days prior to the effective date of any changes in the Condominium document, other than supplemental declarations which only annex additional areas pursuant to Declarant's reserved rights, and also of any change in the management agent or manager of the Condominium.

(b) Unless all holders of first mortgage liens on individual Homes of which the Association has been given notice, have given their prior written approval if they so request, the Association shall not:

(i) Fail to employ professional management for the Condominium unless the Declarant is then serving as manager;

(ii) Change the pro rata interest of any Home for purposes of assessment, or change the percentage interest of any Home, other than through the process of annexation of additional areas as provided in Article IX above.

(iii) Petition or sub-divide any unit of the Common Areas of the Condominium; or

(iv) Seek to abandon the Condominium status of the project except as provided by statute in case of loss to the Homes and/or Common Areas.

(c) Each Mortgagee who shall so request shall be entitled to written notice from the Association of any default by a Mortgagor of an individual Home in the performance of the Mortgagor's obligations under the Condominium documents and which is not cured within sixty (60) days.

(d) The Association shall honor any powers of attorney given by any Homeowner to its Mortgagee pursuant to its mortgage documents.

Section 10.8. Definition of Terms. The following terms as used in this Declaration shall have the meanings set forth as follows:

"Declaration" shall mean this Enabling Declaration and any Supplemental Declarations pertaining to this Condominium.

"Declarant" shall mean FALENDER HOMES CORP./INDIANA, its successors and assigns.

"Condominium" shall mean and include all the units and all Common Areas in the project, including any and all property annexed hereto. Such term and the term "Horizontal Property Regime" shall have the same meaning and such terms may be used interchangeably.

"Home" shall have the meaning set forth in Section 1.2. Sometimes the term "unit" may be used herein to refer to a Home.

"Adjacent Property" shall mean the parcel of additional land which is shown on Exhibit "A" as the land that Declarant has the right to annex to the Condominium.

"Homeowner" shall mean the owner or a collective owner, whichever the case may be, of a Home.

"Limited Common Area" shall mean any part of the Common Area which is restricted to the use of one Home or to a designated group of Homes to the exclusion of other Homes.

"Board of Directors" or "Board" as used herein shall refer to the Board of Directors of the Association.

"Fiscal Year" shall mean the twelve (12) month period beginning May 1 and ending on the following April 30.

"Owner" is used herein interchangeably with Homeowner and shall have the same meaning.

As used herein the singular of any term shall mean and apply to the plural and the plural to the singular. Also the use of any gender shall mean and apply to any other gender where applicable.

IN WITNESS WHEREOF, the parties have entered into this Enabling Declaration Establishing a Plan for Condominium Ownership this 5th day of October, 1973.

FALENDER HOMES CORP./INDIANA

By [Signature]

ATTEST:

[Signature]

STATE OF INDIANA )  
                                  )SS:  
COUNTY OF MARION )

RECEIVED FOR RECORD  
DEC 21 1 57 PM '73  
FALENDER HOMES  
CORP.  
OF INDIANA

Before me, a Notary Public, in and for said County and State, personally appeared Steven Falender and John E. Kramer, the                                    and                                   , respectively, of FALENDER HOMES CORP./INDIANA.

WITNESS MY HAND and Notarial Seal this 5th day of October, 1973.  
Commission Expires: May 13, 1974



[Signature]  
Notary Public

This instrument prepared by Walter E. Wolf, Jr.  
KLINEMAN, ROSE and WOLF, 2130 Indiana National Bank Tower  
Indianapolis, Indiana 46204.

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ARTICLE I  
THE ARBON COMPANY  
AND OF  
THE ARBON ASSOCIATION, INC.

ARTICLE I  
IDENTIFICATION AND ADOPTION

Section 1.01. Identification and Adoption.  
These By-Laws are adopted simultaneously with the execution

of a certain Declaration creating the ARBON COMPANY (hereinafter usually called the "Corporation") to which these By-Laws are attached and made a part hereof. The operation of the Corporation shall be by THE ARBON ASSOCIATION, INC. ("the Association"), to which these By-Laws shall apply.

The Declaration and Articles of Incorporation are incorporated herein by reference, and all of the covenants, rights, restrictions, and liabilities therein contained shall apply to and govern the interpretation of these By-Laws. The definitions and terms as declared and used in this Declaration shall have the same meaning in these By-Laws. The provisions of these By-Laws shall apply to the Property and the administration and conduct of the Affairs of the Association.

Section 1.02. Jurisdiction. All of the Owners, Future Owners, tenants, future tenants, or their guests and invitees, or any other person that might use or occupy a lot or any part of the Property, shall be subject to the rules, restrictions, terms, and conditions set forth in the Declaration, these By-Laws and the Act.

ARTICLE II  
Meetings of Association

Section 2.01. Purpose of Meetings. At least annually and at such other times as may be necessary, a meeting of the Owners shall be held for the purpose of electing the Board of Directors, approving the annual budget, providing for the collection of common expenses, and for such other purposes as may be required by the Declaration, these By-Laws or the Act.

Section 2.02. Annual Meetings. The annual meeting of the members of the Association shall be held on the first Monday in April in each calendar year. At the annual meeting the Owners shall elect the Board of Directors of the Association in accordance with the provisions of these By-Laws and transmit such other business as may properly come before the meeting.

Section 2.03. Special Meetings. A special meeting of the members of the Association may be called by resolution of the Board of Directors or upon a written petition of the Owners who have not less than fifty percent (50%) of the franchise vote. The resolution or petition shall be presented to the President or Secretary of the Association and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

Section 2.04. Notice and Place of Meetings. All meetings of the members of the Association shall be held at any suitable place in Marion County, Indiana, as may be

designated by the Board of Directors. Written notice stating the date, time and place of any meeting, and in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Association to each Owner. The notice shall be mailed or delivered to the Owners at their address as it appears upon the records of the Association and to any mortgagee who requests the same in writing at the address as it appears on the records of the Association. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

Section 2.11. Voting.

(a) Number of Votes. To facilitate the orderly conduct of the meeting, each Owner shall have a Percentage Vote and shall be entitled to cast that number of votes on each matter coming before the meeting which is equal to his Home's unit of interest in the Common Areas as set forth in Section 1.5 of the Declaration.

(b) Multiple Owners. Where the Owner of a Home constitutes more than one person, or is a partnership, there shall be only one voting representative entitled to all the Percentage Vote allocable to that Home. At the time of acquisition of a title to a Home by a multiple Owner or a partnership, those persons constituting such Owner or a partnership, with the Secretary of the Association an irrevocable proxy appointing one of such persons or partnerships as the voting representative for such Home, which shall remain in effect until the partners designate another representative, or such appointed representative relinquishes such appointment in writing, becomes incompetent, dies or such appointment is otherwise rescinded by order of a court of jurisdiction. Such appointed voting representative may grant a proxy to another to vote in his place at a particular meeting or meetings pursuant to paragraph (d) of this Section 2.05, which shall not constitute a permanent relinquishment of his right to act as voting representative for the Home.

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(c) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustee may cast the Percentage Vote on behalf of the trust and the agent or other representative of the corporation duly empowered shall cast the Percentage Vote to which the corporation is entitled.

(d) Proxy. An Owner may vote either in person or by his duly authorized and designated attorney-in-fact. Where voted for by proxy, the Owner shall duly designate his attorney-in-fact in writing, delivered to the Association prior to or at the commencement of the meeting.

(e) Quorum. Except where otherwise expressly provided in the Declaration, these By-Laws or the Act, the "quorum" representative one-tenth (1/10) of the Percentage Vote shall constitute a quorum at all meetings. The term majority of Owners or majority of Percentage Vote, as used in these By-Laws shall mean the Owners entitled to more than one-half (1/2) of the Percentage Vote in accordance with the applicable percentage set forth in the Declaration, as such may be amended from time to time.

(f) Conduct of Meeting. The Chairman of the meeting shall be the President of the Association. He shall call the meeting to order at the duly designated time and business will be normally conducted in the following manner:

(1) Reading of Minutes. The Secretary shall read the minutes of the previous meeting. The minutes of any special meeting shall be read and approved by the Board of Directors and the minutes shall be retained upon motion.

(2) Statement of Accounts. The Treasurer shall report to the Board of Directors the financial condition of the Association and answer relevant questions of the Owners. The Treasurer shall also report on the Common Expenses and Financial Budget for the current year.

(3) Business. The proposed budget for the current fiscal year shall be presented to the Owners for approval or amendment.

(4) Election of Board of Directors. Nominations for the Board of Directors may be made by any Owner from those persons eligible to serve. Such nominations must be in writing and filed with the Secretary of the Association at least ten (10) days prior to the date of the annual meeting. Voting for the Board of Directors will be by paper ballot. The ballot shall contain the name of each person eligible to be elected and the number of votes to which it is entitled for as many nominees as are to be elected; however, he shall not be entitled to cumulate his votes. Each Owner may cast the total number of votes to which he is entitled. The number of votes shall be elected the Owner voting Owner shall sign his ballot.

(5) Other business. Other business may be brought before the Board of Directors by written request submitted to the Secretary of the Association at least ten (10) days prior to the date of the meeting; provided, however, that such written request may be made by a majority of the percentage vote.

ARTICLE III

Board of Directors

Section 3.01. The affairs of the Association and the Condominium shall be governed and managed by the Board of Directors (herein collectively called the "Board" or "Directors" and individually called "Directors"). The Board of Directors shall be composed of five persons. No person shall be eligible to serve as a Director unless he is an Owner or is appointed by the Restaurant, and no person may serve as a Director who is 31 days or more delinquent in paying any installment of an Annual or Special Assessment.

Section 3.02. Initial Board of Directors. The initial Board of Directors shall be as provided in the Articles, all of whom shall be appointed by Restaurant. Notwithstanding any other provisions in the Articles, or the Declaration, the initial Board shall hold office until the first annual meeting of the Owners which shall be held on the first Monday on or after April 1<sup>st</sup>, 1974.

Section 3.03. Additional Qualifications. There

An Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a person or an officer or trustee shall be eligible to serve on the Board of Directors, except that no non-owner other than the Restaurant may be represented on the Board of Directors by more than one person at a time.

Section 3.04. Term of Office and Vacancy. The Board of Directors shall be elected at each annual meeting of the Association. Directors shall hold office for a term of one (1) year or until their successors have been duly elected and qualified.

Any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the percentage vote of the Owners if a Director is removed in accordance with Section 3.05 of this Article.

Section 3.05. Removal of Director. A Director or Directors, except the initial Directors, may be removed with or without cause by vote of the Owners at a meeting duly called at the same meeting from eligible Owners nominated at the annual meeting. A Director so elected shall serve until the next annual meeting of the Owners or until his successor is duly elected and qualified.

Section 3.06. Duties of the Board of Directors. The Board of Directors shall provide for the administration of the Condominium, the maintenance, upkeep and preservation of the Common Areas and Limited Areas, and the collection and disbursement of the Common Expenses. These duties include, but are not limited to:

- (a) Management, maintenance and repair of the Common Areas.
- (b) Procuring of utilities used in connection with the operation and maintenance of the Common Areas, and their removal from the Common Areas.



(c) landscaping, painting, decorating, and maintenance of the exterior of the Building, as provided in the Declaration.

(d) surfacing, paving and maintaining streets, parking areas, and sidewalks;

(e) assessment and collection from the Owners of the Owner's pro rata share of the Common Expenses;

(f) preparation of annual budgets;

(g) preparing and delivering annually to the Owner a full accounting of all receipts and expenditures in the prior year, and the budget for the current year, which shall be delivered to the Owner simultaneously with the delivery of the annual budget;

(h) keeping a current, accurate and detailed record of records and appendices affecting the Property, including and listing the Common Expenses. All records and vouchers shall be available for examination by an Owner at any time during normal business hours.

**Section 3.07. Powers of the Board of Directors.**

The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties.

These powers include, but are not limited to, the power:

(a) to employ a managing agent or a real estate management company (either being hereinafter referred to as "Managing Agent") to assist the Board in performing its duties;

(b) to purchase for the benefit of the Owners such equipment, materials, labor, and services as may be necessary in the judgment of the Board of Directors;

(c) to procure for the benefit of the Owners fire and extended coverage insurance covering the Building and the Property to the full replacement value thereof and to procure public liability and property damage insurance covering the Building and the Property to the full replacement value thereof and the Association, for the benefit of the Owners and the Association;

(d) to employ legal counsel, architects, engineers, accountants, and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Condominium;

(e) to include the name of all of the above and foreclose as a Common Expense and to pay all of such costs therefrom;

(f) to open and maintain a bank account or accounts in the name of the Association;

(g) to determine rules for the election and term of personnel necessary for the maintenance, repair and replacement of elevators, stairways and the payment of vouchers, invoices and the like;

(h) to adopt, revise, amend and alter from time to time reasonable rules and regulations with respect to the use, enjoyment, maintenance and enjoyment of the Property;

**Section 3.08. Limitation on Third Parties. The**

liability of the Board of Directors or other such committee shall be limited to contracts involving a total expenditure of more than \$2,500.00 without obtaining the prior approval of Owners at a meeting thereof, except in the following cases:

(a) contracts for replacing or repairing portions of the Common Areas of the Building which are not in excess of \$2,500.00 and for which the Board of Directors has actually received;

(b) proposed contracts and proposed expenditures for the purchase of insurance which have been approved by the Board of Directors at the annual meeting;

(c) items within the budget need not be approved by the Board of Directors if the total budgeted items for a year are not exceeded and by so doing the total budget will not be increased.

**Section 3.09. Compensation. No Director shall**

receive any compensation for his services as such except to such extent as may be held at such time and place as shall be determined from time to time by the Homeowners.

Section 3.10. 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 President.

The Secretary shall give notice of the regular meetings of the Board to each Director personally or by United States Mail at least five (5) days prior to the date of such meeting.

Special meetings of the Board of Directors may be called by the President or any two members of the Board.

The person or persons calling such meeting shall give written notice thereof to the Secretary who shall either personally or by mail and at least three (3) days prior to the date of such special meeting, give notice to the Board members. The notice of the meeting shall contain a statement of the purpose for which the meeting is called. Such meeting shall be held at such place and at such time within Marion County, Indiana, as shall be designated in the notice.

Section 3.11. Waiver of Notice. Any Director may, in writing, waive notice of a meeting and such waiver shall be deemed equivalent to the giving of such notice.

The presence of any Director at a meeting shall, as to such Director, constitute a written notice of the time, place and purpose thereof. If all Directors are present at the meeting of the Board, notice shall not be required and any business may be transacted at such meeting.

Section 3.12. Quorum. At all meetings of the Board a majority of the Directors shall constitute a quorum for the transaction of business and the votes of the majority of the Directors present at a meeting at which a quorum is present shall be the decision of the Board.

Section 3.13. Non-liability of Directors.

The Directors shall not be liable to the Owners or any other person for any error or mistake in judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, his fraud or gross negligence. The Owners shall indemnify and hold harmless each of the Directors against any and all liability to any person, firm or corporation arising out of contracts made by the Board on behalf of the Association, unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or By-laws. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of the Association and that in all matters the Board is acting for and on behalf of the Owners as their agent. The liability of any Owner arising out of any contract made by the Board or out of the aforesaid indemnity in favor of the Directors shall be limited to such percentage of the total liability or obligation thereunder as is equal to his Percentage Interest. Every contract made by the Board or the Managing Agent on behalf of the Association shall provide that the Board of Directors and the Managing Agent, as the case may be, is acting as agent for the Owners and shall have no personal liability thereunder, except in their capacity as Owners and then only to the extent of their Percentage Interest.

Section 3.14. Additional Indemnity of Directors.

The Owners shall indemnify any person, his heirs, assigns and personal representatives, made a part to any action, suit or proceeding by reason of the fact that he is or was a Director of the Association, against the reasonable expenses, including attorneys fees, actually and necessarily incurred.

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by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therefrom, except as otherwise specifically provided herein in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such Director is liable for gross negligence or misconduct in the performance of his duties. The Owners shall also reimburse to any such Director the reasonable costs of settlement or of judgment rendered in any action, suit or proceeding, if it shall be found guilty of gross negligence or misconduct in the performance of his duties. The Owners shall also reimburse to any such Director the reasonable costs of settlement or of judgment rendered in any action, suit or proceeding, if it shall be found by a majority of the Owners that such Director was not guilty of gross negligence or misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Director, no Director shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good faith, such Director relied on the books and records of the Association or statements or advice made by or prepared by the Managing Agent or any officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the Association to render advice or service unless such Director had actual knowledge of the falsity or incorrectness thereof; nor shall a Director be deemed guilty of or liable for negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Directors.

Section 3.15. Bond. The Board of Directors shall give bond and shall require the Treasurer and such other officers as the Board deems necessary to give bond, indemnifying the Association against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misappropriation, and other acts of fraud or dishonesty, in such sums and with such sureties as may be provided by the By-Laws of the Board of Directors and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. The expense of such bond shall be a Common Expense.

ARTICLE IV  
Officers

Section 3.01. Officers of the Association. The principal officers of the Association shall be the President, Vice President, Secretary and Treasurer, all of whom shall be elected by the Board. The Directors may appoint an Assistant Treasurer and an Assistant Secretary and such other officers as in their judgment may be necessary. Any two or more offices may be held by the same person, except that the duties of the President and Secretary shall not be performed by the same person.

Section 3.02. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the initial meeting of each new Board. Upon an affirmative vote of a majority of all members of the Board, any officer may be removed either with or without cause and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 3.03. The President. The President shall be elected from among the Directors and shall be the chief

executive officer of the Association. He shall preside at all meetings of the Association and of the Board, shall have and discharge all of the general powers and duties usually vested in the office of president or chief executive officer of an association or a stock corporation, organized under the laws of Indiana, including, but not limited by, the power to appoint committees from the Owners and he may deem necessary to assist in the affairs of the Association and to perform such other duties as the Board may from time to time prescribe.

Section 1.06. The Vice President. The Vice President shall be elected from among the Directors and shall perform all duties incumbent upon the President during the absence or disability of the President. The Vice President shall also perform such other duties as these By-Laws may prescribe or as shall, from time to time, be imposed upon him by the Board or by the President.

Section 1.07. The Secretary. The Secretary shall be elected from among the Directors. The Secretary shall attend all meetings of the Association and of the Board and shall keep or cause to be kept a true and complete record of the proceedings of such meetings, shall perform all other duties incident to the office of the Secretary, and such other duties as from time to time may be prescribed by the Board. The Secretary shall specifically see that all notices of the Association or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-Laws.

Section 1.08. The Treasurer. The Board shall elect a Treasurer who shall maintain a correct and complete record of account showing accurately at all times the financial condition of the Association and such other duties incident to the office of the Treasurer. He shall be the legal custodian

of all moneys, notes, securities and other valuables which may from time to time come into the possession of the Association. He shall immediately deposit all funds of the Association coming into his hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account in the name of the Association. Another officer may serve as the Treasurer, as may a person who is not a member of the Board of Directors.

Section 1.09. Assistant Officers. The Board of Directors may, from time to time, designate and elect from among the Owners an Assistant Secretary and Assistant Treasurer who shall have such powers and duties as the officers whom they are elected to assist shall delegate to them and such other powers and duties as these By-Laws or the Board of Directors may prescribe.

**ARTICLE V**  
**ASSESSMENTS**

Section 2.01. Annual Accounting. Annually, after the close of each calendar year and prior to the date of the annual meeting of the Association, the Board shall cause to be prepared and furnished to each Owner a financial statement prepared by a public accounting firm then serving the Association, which statement shall show all receipts and expenses received, incurred and paid during either the preceding calendar year, or in the alternative the same for the current fiscal year.

Section 2.02. Proposed Budget. Annually, on or before the date of the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget for the ensuing fiscal year estimating the total amount of the Common Expenses for the ensuing year and furnish a copy of such proposed budget to each Owner prior to the annual meeting. The annual budget shall be submitted

to the Owners at the annual meeting of the Association for adoption, and, if so adopted, shall be the basis for the Annual Assessment for the following fiscal year. At the annual meeting of the Owners, the budget may be approved in whole or in part or may be amended in whole or in part by a majority of the Percentage Votes provided, however, that if the annual meeting of the Owners is adjourned before an annual budget is approved at such meeting, then the Board of Directors may adopt an annual budget for such year.

Section 5.01. Annual Assessments. Promptly following the adoption of the annual budget, the Board of Directors shall give written notice of the assessment against each respective Home based on its Percentage Interest (herein called the "Annual Assessment"). The Annual Assessment against each Home shall be assessed on a fiscal year basis for the year beginning on \_\_\_\_\_ and shall be due and payable in equal monthly installments, in advance, on the first day of each month. Payment of the monthly installments of the Annual Assessment shall be made to the Board of Directors or the Managing Agent, or otherwise, as directed by the Board of Directors. The Annual Assessment shall automatically become a lien on that Home on the date it is due and payable. The Secretary of the Association shall, upon due request and for a reasonable charge, furnish a certificate setting forth whether the annual and special assessments on a designated Home have been paid, or the amount of any unpaid and delinquent annual or special assessments.

Section 5.01. Assessments After Amendment. Subsequent to the filing of any Supplemental Declaration and prior to the date the assessment on the amended portion shall commence, the Board of Directors shall revise the budget to include the additional area and it shall revise the Annual Assessments accordingly provided, however, such revised Annual Assessments shall not be any greater or increase the amount of the Annual Assessment that an Owner is paying at the time of the revision of the budget.

Section 5.02. Failure of Owner to Pay Assessments. Each Owner shall be personally liable for the payment of all Regular and Special Assessments. Where the owner consists of more than one person, the liability of such persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular or Special Assessment when due, the lien of such assessment on the Owner's Home may be foreclosed by the Board of Directors for and on behalf of the Association as provided by law. In any action to foreclose the lien for assessments, the Owner and occupant shall be jointly and severally liable for the payment to the Association of reasonable rental for such Home and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Home and to collect the rentals and other profits therefrom for the benefit of the Association to be applied to the unpaid Regular or Special Assessment. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Annual or Special Assessment without foreclosing or waiving the lien securing the same. In any action to re over by foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover costs and expenses of such action incurred, including but not limited to reasonable attorneys' fees, from the Owner of the respective Home.

Section 5.06. Maintenance and Repairs. Every Owner shall promptly perform all maintenance and repair within his own Home, which, if neglected, would affect the value of the Property. Such maintenance and repairs include, but are not limited to, any partitions and interior walls, windows in the Home and all doors leading into the Home, internal water lines, plumbing, electric lines, appliances, gas lines, telephones, air conditioning, doors, windows, lamps and all other accessories pertaining to the Owner and apartment to the Home.

ARTICLE VI

Right to Enter, Poles and Regulations

Section 5.07. Right of Entry. An Owner or occupant of a Home shall grant the right of entry to the Managing Agent or any other person authorized by the Board in case of any emergency originating in or threatening his Home or the Building in which it is located, whether the Owner is present at the time or not. Any Owner shall permit other persons, or their representatives where so required, to enter his Home for the purpose of inspection or performing installations, alterations or repairs to the mechanical or electrical services, or to make structural repairs, provided that requests for entry are made in advance and that such entry is at a time convenient to the Owner. In case of emergencies, such right of entry shall be immediate.

Section 5.08. Right of Board to Adopt Rules and Regulations.

The Board may promulgate such additional rules and regulations regarding the operation of the Property, including but not limited to the use of the Common Areas and Limited Common Areas, as it may deem necessary from time to time and such rules as are adopted may be amended by a vote of a majority of the Board, and the Board shall enforce copies of such rules to be delivered or mailed promptly to all Owners.

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ARTICLE VII

Assent to By-Laws

Section 7.01. These By-Laws may be amended by a vote of not less than sixty-seven percent (67%) of the Percentage Vote of the Owners in a duly constituted meeting called for such purpose, or at an annual meeting.

ARTICLE VIII

Mortgages

Section 8.01. Notice to Association. Any Owner who places a first mortgage lien upon his Home, shall notify the Secretary of the Association and provide the name and address of the Mortgagee or the mortgagee may do so. A record of such Mortgagee and the name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of the Declaration or these By-Laws shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record at the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee as may otherwise be required by the Declaration or these By-Laws shall be required and no Mortgagee shall be entitled to vote on any matter to which he otherwise may be entitled by virtue of the Declaration or By-Laws or proxy granted to such Mortgagee in connection with the mortgage.

Section 8.02. Notice of Unpaid Assessments.

The Association shall, upon request of a Mortgagee, a prospective Mortgagee or purchaser who has a contractual plan to purchase a Home, furnish to such Mortgagee or purchaser a statement setting forth the amount of the then unpaid annual or special Assessments against the Home, which statement shall be binding upon the Association and the Owners, and any Mortgagee or grantee of the Home shall not be liable for nor shall the Home conveyed be subject to a lien for any unpaid assessments in excess of the amount set forth in such statement.

ARTICLE IX

Insurance and Use of Proceeds

Section 9.01. Insurance. (a) The Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain insurance for all the buildings in the Condominium against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard, and shall also obtain a broad form public liability policy covering all Common Areas and Limited Common Areas and all damage or injury caused by the negligence of the Association or any of its agents. Said insurance may include coverage against vandalism and may include loss of occupancy and such other coverage as the Association may deem appropriate. All such insurance coverage, including insurance on individual buildings obtained by the Board of Directors shall be written in the name of the Association as Trustee for each of the Owners, in proportion to their respective units of interest in the Condominium. Additional insurance on individual homes obtained by their respective Owners may be written in the name of such Owners. Premiums for insurance obtained by the Board of Directors on individual buildings shall be included in the annual assessment as provided hereunder.

(b) The Board of Directors shall advise each Owner annually in writing of the amount and type of insurance coverage on his particular home.

Section 9.02. Source of Reimbursement of Improvements.

If all or any part of the Condominium Property is damaged or destroyed, they shall be rebuilt or repaired as provided in Section 10.4 of the Declaration.

Section 9.03. Collection of Insurance.

The Board of Directors of the Association shall collect all insurance proceeds payable with respect to any damaged building, and shall contract or make arrangements to rebuild or repair the damaged

such damage. All insurance payable on account of such casualty shall be deposited by the Association in a bank or financial institution, the accounts of which bank or institution are insured by a Federal governmental agency, with the proceeds agreed to by the said bank or institution that such funds may be withdrawn only upon the signature of at least two members of the Board of Directors, or by their duly authorized agent.

Section 9.04. Restoration and Repair.

The Board of Directors may advertise for sealed bids with licensed contractors for such repair or restoration, and then may negotiate with any contractor who, unless the Board of Directors shall otherwise determine, shall be required to provide a full performance and payment bond for the repair, reconstruction or rebuilding of such damaged building or buildings, and/or other improvements. If the insurance proceeds payable on account of the casualty are insufficient to pay all the cost of repairing and/or reconstructing the building or buildings to the same condition as formerly, the Board of Directors shall levy a special assessment against the Owners directly affected by the damage to make up any deficiency in the proportions provided in Section 9.02 hereof. If there is more than one building destroyed, the insurance proceeds payable to the Association shall be apportioned to the respective buildings on the basis of the relative square footage to the several buildings that were damaged. If there is a dispute about the relative amount of damage to the buildings, the Association shall have an independent appraiser use to determine the relative amount of damage. If the insurance proceeds are adequate to pay for all the damage done, then arrangements to the several buildings shall not be necessary. Excess insurance proceeds, if any, shall become a part of the Association's general funds to be used as the Board of Directors may deem to be appropriate.

Section 9.05. Assessment of Homeowner's If Insurance Proceeds are Inadequate. If any buildings are to be repaired or restored under the terms of Section 10.4 of the Declaration and the insurance proceeds are inadequate to pay the complete cost of such repair or restoration, Special Assessments shall be made against the Owners of the Homes in the buildings directly affected by the damage, and against all Homeowners in case of damage to Common Areas, in sufficient amounts to provide the funds necessary to complete such repair or restoration. Such assessments may be made at any time and at more than one time. Assessment for damage to a building containing Homes shall be made to the Owners of the Homes therein in proportion to the relative damage or destruction to each Home. Assessments on account of damage to Common Areas shall be in proportion to the Owner's Percentage Interest in the Common Areas. The Board of Directors shall select a qualified appraiser who shall separately determine the relative damage or destruction done to each Home and to the Common Areas. In so doing, the appraiser may, but shall not be required to, consider the Owner's Percentage Interest and the value of their respective Homes.

Section 9.06. Allocation of Insurance Proceeds if No Repair or Restoration. If after major damage or destruction the damaged or destroyed buildings are not to be restored, then the insurance proceeds payable on account of the damage to or destruction of such buildings shall first be used to pay the cost of removing any portion of the buildings that remain after such casualty and of restoring the site. The balance of the funds on hand shall then be distributed to the Homeowners and the holders of items on the Homes in accordance with the relative value of the Homes immediately prior to the damage if permitted by law; otherwise in proportion to their Percentage Interest in the Common Areas.

In order to determine the relative values of the Homes the Board of Directors shall select a qualified appraiser who shall determine the relative values of each Home. The determination of the appraiser shall be binding upon all parties except that if any of the affected Owners challenges the appraiser's determination, such Owner shall appoint a qualified appraiser skilled in valuation of damage and destruction to determine the value. The average of the calculations of the two appraisers shall determine the question of such value. In the event that an Owner or Owners challenge the determination of the original appraiser, the expense of all three appraisers shall be shared to such challenging Owner or Owners. The determination of the Board of appraisers shall be final and binding upon the Association and all affected Owners.

Section 9.07. Homeowner's Insurance. In the event of damage or destruction by fire or other casualty to any Home or other property covered by insurance written in the name of an individual Owner, said Owner shall be entitled to such insurance proceeds.

EFFECTIVE DATE:



CONSENT BY MORTGAGEE

The Indiana National Bank, Mortgagee  
of the Real Estate being submitted to the Horizontal Property Act  
hereby consents to such property being submitted to the Horizontal  
Property Regime, and it agrees that its lien on the Common Areas  
of the Horizontal Property Regime shall be released and said Mort-  
gagee shall look solely to its Mortgage Lien on each of the Homes  
in the Condominium together with their respective percentage in-  
terest in the Common Areas and Facilities thereof.

Dated this 19<sup>th</sup> day of November, 1973.

By Thomas J. Hall, V.P.

STATE OF INDIANA )  
                          )  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and  
State, personally appeared Thomas J. Hall  
who acknowledged the execution of 'he foregoing consent on behalf  
of The Indiana National Bank.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal  
this 19th day of November, 1973.

Virginia Houk  
Notary Public      Virginia Houk

My Commission Expires:

March 15, 1975

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EXHIBIT D

TO ENABLING DECLARATION OF THE ARBORS CONDOMINIUM

Each apartment unit ("Home") in The Arbors Condominium shall have an undivided 2.78% interest in the Common Areas.

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APPROVED  
AND  
FILED  
NOV 28 1973

*L. A. Conrad*  
SECRETARY OF  
STATE OF INDIANA

Corporate Form No. 364-1 (Aug. 1971)  
Page One

ARTICLES OF INCORPORATION  
(Not for Profit)

Prescribed by Larry A. Conrad,  
Secretary of State of Indiana

INSTRUCTIONS:

Use 8 1/2 x 11 inch Paper for Inserts

Present 2 Executed Copies to Secretary of  
State, Room 155, State House, Indianapolis,  
Indiana 46204

FILING FEE is \$13.00

General Requirements - "Non-Profit" means  
that the Corporation shall not engage in any  
activities for the pecuniary gain of its  
members.

ARTICLES OF INCORPORATION  
OF

THE ARBORS ASSOCIATION, INC.

The undersigned incorporator or incorporators, desiring to form a corporation (hereinafter referred to as the "Corporation") pursuant to the provisions of the Indiana Not-For-Profit Corporation Act of 1971, (hereinafter referred to as the "Act"), executed the following Articles of Incorporation.

ARTICLE I

Name

THE ARBORS ASSOCIATION, INC.

The name of the Corporation is  
(The name shall include the word "Corporation" or "Incorporated", or one of the abbreviations thereof.)

ARTICLE II

Purposes

The purposes for which the Corporation is formed are:

See next two pages.

Exhibit E

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ARTICLE II

PURPOSES

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 the maintenance, preservation and architectural control of the Homes and Common Area within that certain tract of property described as The Arbors Horizontal Property Regime and to promote the health, safety and welfare of the residents within the above-described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association for this purpose to:

- (a) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Condominium of Horizontal Property Regime, hereinafter called the "Declaration", applicable to the property and recorded or to be recorded in the office of the Recorder of Marion County, Indiana, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length;
- (b) fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;
- (c) acquire (by gift, 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;
- (d) borrow money, pledge, deed in trust, or hypothecate any and all of its real or personal property as security for money borrowed or debts incurred;
- (e) dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members.
- (f) Participate in mergers and consolidations with other non-profit corporations organized for the

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same purposes or annex additional residential property  
and Common Areas.

(g) have and to exercise any and all powers, rights  
and privileges which a corporation organized under  
the Not-For-Profit Corporation Law of the State of  
Indiana by law may now or hereafter have or exercise.

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ARTICLE V  
MEMBERSHIP

Every person or entity who is a record owner of a Home, as the same is defined in the Declaration, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Home which is subject to assessment by the Association.

The Association shall have one class of voting membership. Each member shall be entitled to cast one vote on each matter coming before the members.

Where more than one person owns an interest in any Home, all such persons shall be members. However, there shall be only one voting representative entitled to all the Percentage Vote allocable to a Home. The one voting representative entitled to cast the vote shall be determined in accordance with the provisions of the By-Laws of the Corporation.

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**ARTICLE III**  
**Period of Existence**

The period during which the Corporation shall continue is perpetual  
(will either be "Perpetual", or, if to be limited, some definite period of time.)

**ARTICLE IV**  
**Resident Agent and Principal Office**

Section 1. Resident Agent. The name and address of the Resident Agent in charge of the Corporation's principal office is Steven Palender  
(Name)  
2915 North High School Road, Indianapolis INDIANA 46224  
(Number and Street or Building) (City) (State) (Zip Code)

Section 2. Principal Office. The post office address of the principal office of the Corporation is . . . .  
2915 North High School Road, Indianapolis INDIANA 46224  
(Number and Street or Building) (City) (State) (Zip Code)

**ARTICLE V**  
**Membership**

(A minimum of three (3) shall have signed the membership list. Director or Trustees or Incorporators are included in the Membership.)

Section 1. Classes. (If any) The owners of each Home (collectively) in The Arbors Horizontal Property Regime in Marion County, Indiana, shall be members of the Corporation.

Section 2. Rights, Preferences, Limitations, and Restrictions of Classes.

See next page.

Section 3. Voting Rights of Classes.

See next page.

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PLEASE NOTE: The Corporation shall confer upon every member a certificate signed by the President (or Vice-President) and Secretary (or Assistant Secretary), stating that he is a member of the Corporation.



**ARTICLE VI**  
**Directors**

Section 1. Number of Directors. The initial Board of Directors is composed of three (3) members. If the exact number of Directors is not stated, the minimum number shall be three (3), and the maximum number shall be nine (9). . . . Provided, however, that the exact number of directors shall be prescribed from time to time in the By-Laws of the Corporation; AND PROVIDED FURTHER THAT UNDER NO CIRCUMSTANCES SHALL THE MINIMUM NUMBER BE LESS THAN THREE (3).

Section 2. Names and Post Office Addresses of the Directors. The name and post office addresses of the initial Board of Directors are:

Name	Number and Street or Building	City	State	Zip Code
Steven Falender	2915 North High School Road,	Indianapolis,	Indiana	46224
Sidney Z. Goldstein	2915 North High School Road,	Indianapolis,	Indiana	46224
John E. Kramer,	2915 North High School Road,	Indianapolis,	Indiana	46224

**ARTICLE VII**  
**Incorporator(s)**

Section 1. Names and Post Office Addresses. The names and post office address(es) of the incorporator(s) of the Corporation is (are) as follows:

Name	Number and Street or Building	City	State	Zip Code
Steven Falender	2915 North High School Road,	Indianapolis,	Indiana	46224
Sidney Z. Goldstein	2915 North High School Road,	Indianapolis,	Indiana	46224
John E. Kramer,	2915 North High School Road,	Indianapolis,	Indiana	46224

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**ARTICLE VIII**  
**Statement of Property (If any)**

A statement of the property and an estimate of the value thereof, to be taken over by this corporation at or upon its incorporation are as follows: \$100.00 in cash, plus the management of the Common Areas of The Arbors Horizontal Property Regime.

**ARTICLE IX**  
**Provisions for Regulation and Conduct**  
**Of the Affairs of Corporation**  
**(Can be the "By Laws")**

Other provisions, consistent with the laws of this state, for the regulation and conduct of the affairs of this corporation, and creating, defining, limiting or regulating the powers of this corporation, of the directors or of the members or any class or classes of members are as follows:

See next two pages.

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ARTICLE IX

PROVISIONS FOR REGULATIONS AND CONDUCT  
OF THE AFFAIRS OF THE CORPORATION

The affairs of the Corporation shall be managed by a Board of Directors. The initial Board as set forth in Article VI, Section 2, above, shall serve until the first annual meeting of the members which shall be held on the first Monday after April 15. At the first annual meeting of the members and each annual meeting subsequent thereto, the members shall elect a successor Board of Directors.

The Association may be dissolved with the Assent of not less than all of the members, or at any time the Condominium Property is removed from the Horizontal Property Act.

Amendment of these Articles shall require the assent of 67% of the members.

If the Corporation enters into contracts or transacts business with one or more of its Directors, or with any firm of which one or more of its Directors are members, or with any other corporation of which one or more of its Directors are stockholders, directors or officers, such contract or transaction shall not be invalidated or in any way affected by the fact that such Director or Directors have or may have interests therein which are or might be adverse to the interests of this Corporation, provided that the fact of such interest is disclosed or known to the Board of Directors and the Board of Directors shall nevertheless approve and ratify by a vote of a majority of the Directors present, such interested Director to be counted in determining whether a quorum is present and in calculating the majority of such quorum necessary to carry such vote. This section shall not be construed to invalidate any contract or other transaction which would otherwise be valid under the common and statutory law applicable thereto.

Meetings of the members and the Board of Directors shall be held at such place, within or without the State of Indiana, as may be provided or authorized by the provisions of the Corporation's By-Laws.

Any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, may be taken without a meeting, if prior to such action a written consent thereto is signed by all members of the Board, or of such committee, as the case may be, and

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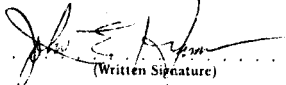
such written consent is filed with the minutes of the proceedings of the Board or committee.


The Corporation shall indemnify any person made a party to any action, suit or proceeding by reason of the fact that he, his testator or intestate is or was a Director, officer or employee of the Corporation, or of any Corporation which he served as such at the request of the Corporation against the reasonable expenses, including attorneys fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein except in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such officer, Director or employee is liable for negligence or misconduct in the performance of his duties. The Corporation may also reimburse to any such Director, officer or employee the reasonable costs of settlement of any such action, suit or proceeding if it shall be found by a majority of a committee composed of the Directors not involved in the matter in controversy (whether or not a quorum) that it was to the interests of the Corporation that such settlement be made and that such Director, officer or employee was not guilty of negligence or misconduct. Such rights of indemnification and reimbursement shall not be deemed exclusive of any other rights to which such Director, officer or employee may be entitled apart from the provisions of this Article.


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The undersigned, being one or more persons, do hereby adopt these Articles of Incorporation, representing beforehand to the Secretary of State of the State of Indiana and all persons whom it may concern that a membership list or lists of the above named corporation for which a Certificate of Incorporation is hereby applied for, have heretofore been opened in accordance with the law and that at least three (3) persons have signed such membership list.

IN WITNESS WHEREOF, I (we) the undersigned do hereby execute these Articles of Incorporation and certify the truth of the facts herein stated, this 5th day of October, 1973.

  
(Written Signature)  
John E. Kramer  
(Printed Signature)

  
(Written Signature)  
Steven Falender  
(Printed Signature)

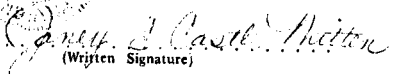
  
(Written Signature)  
Sidney Z. Goldstein  
(Printed Signature)

NOTARY ACKNOWLEDGEMENT  
(required)

State of Indiana  
County of MARION

Before me, Janey E. Castle Mitten, a Notary Public in and for said county and State, personally appeared the above incorporator(s) and (severally) acknowledged the execution of the foregoing Articles of Incorporation.



  
(Written Signature)  
Janey E. Castle Mitten, Notary Public  
(Printed Signature)

My commission expires: May 13, 1974

WITNESS my hand and Notary Seal this 5th day of October, 1973

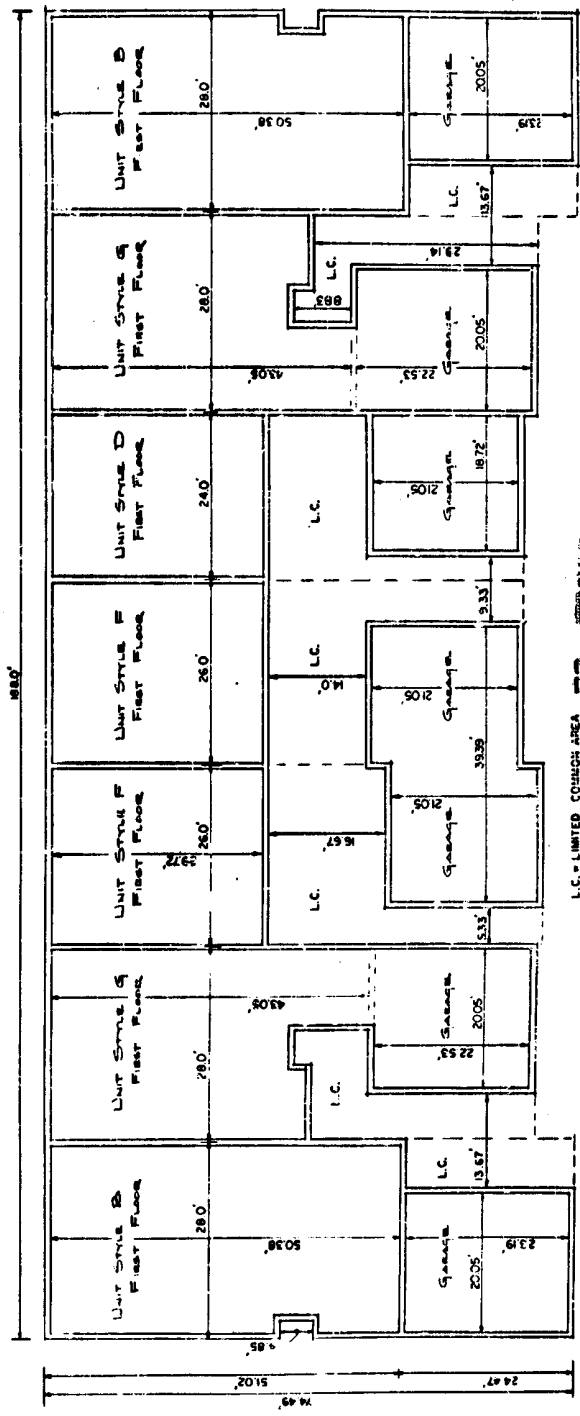
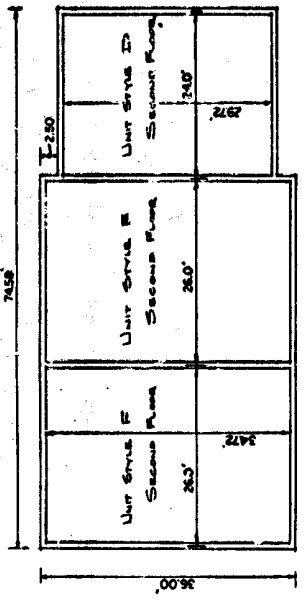
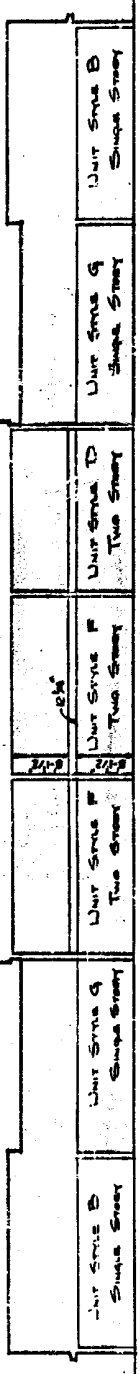
This instrument was prepared by Walter E. Wolf, Jr., (Name)  
KLINEMAN, ROSE and WOLF  
2130 Indiana National Bank Tower, Indianapolis, Indiana 46204  
(Number and Street or Building) 73 79689 (City) (State) (Zip Code)

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(12)

Typical  
Garage



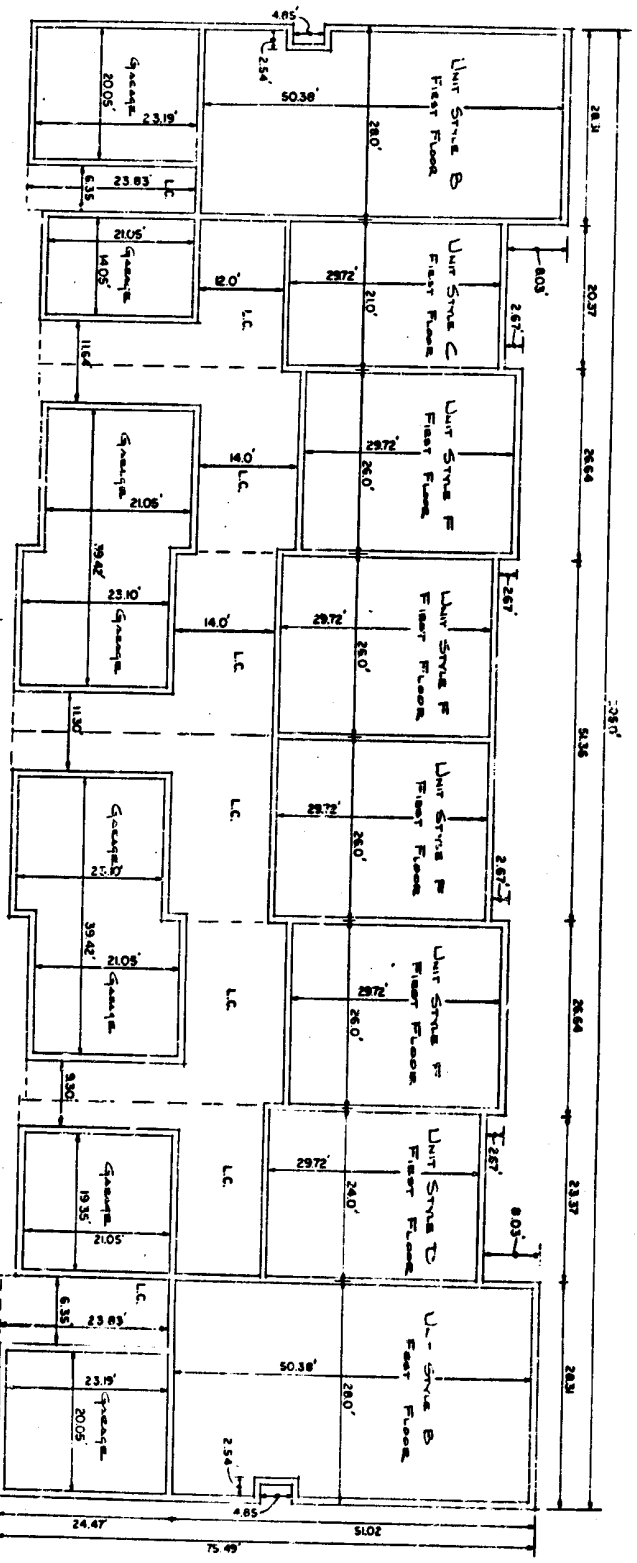
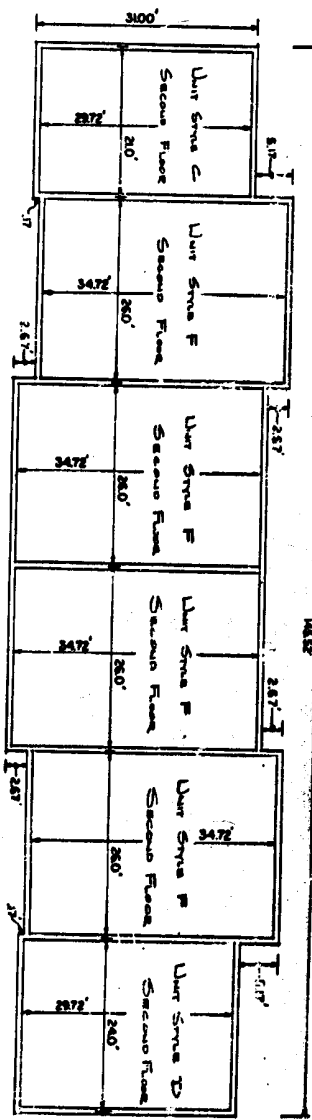
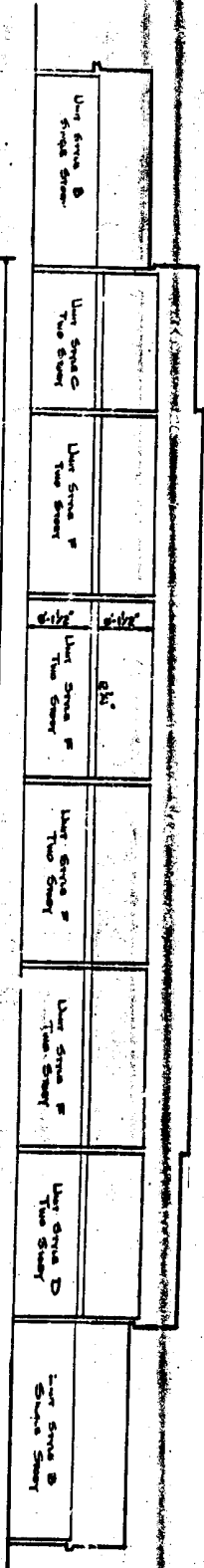
L.C. - LIMITED COUNCIL AREA 73 73039

Building No. 12

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EXHIBIT "C" PAGE 5  
 PROJECT: THE ARBOR CONDOMINIUM - PHASE 1  
 PREPARED FOR: FLENDER HOMES, INC.  
 SCALE: AS SHOWN  
 DATE: 07/11/2002  
 DRAWN BY: [Signature]

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L.C. - LIMITED COMMON AREA

73 79689

BUILDING NO. 10

EXHIBIT "C" PAGE 4

PROJECT: THE ARDOR CONDOMINIUM - PHASE TWO  
 PREPARED FOR: FALINDER HOMES, INC.  
 TITLE: FLOOR PLAN & ELEVATION

SCHNEIDER ENGINEERING CORPORATION  
 200 NORTH EAST ROAD  
 WASHINGTON, MISSISSIPPI 39201  
 (601) 938-0207  
 P.O. BOX 20000

*Handwritten signature/initials*

NO.	DATE	DESCRIPTION	BY	CHKD.
1	11/10/07	ISSUE		







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ENABLING DECLARATION

SP HPR.

ESTABLISHING A PLAN FOR  
CONDOMINIUM OWNERSHIP

THIS DECLARATION, made this 5th day of October, 1973,  
by FALENDER HOMES CORP./INDIANA (the "Declarant"),

W I T N E S S E S

A. Declarant is the sole owner of the fee simple title to the parcel of real estate in Marion County, Indiana, described in Exhibit "A", attached hereto and made a part hereof, and which is designated therein as the "Condominium Property".

B. Declarant, by the execution of this Declaration hereby creates a condominium upon the Real Estate subject to the provisions of the Indiana Horizontal Property Act, hereinafter called the "Act") and the terms and conditions of this Declaration.

C. The property subject to this Condominium may be referred to as The Arbors Horizontal Property Regime.

ARTICLE I

DESCRIPTIONS AND ESTABLISHMENT OF FREEHOLD ESTATES

Section 1.1. Survey Descriptions. Exhibit "A" consists of a survey of the land subjected to this Condominium, and also shows certain adjacent property owned by the Declarant that may be annexed to this Condominium as hereinafter provided. A Site Plan of the land made part of this Condominium, showing the layout, location, identification, numbers and letters, and dimensions of all of the Homes in the Condominium is attached hereto as Exhibit "B". Plans of each Home, and of each building

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in the Condominium, together with representative elevations of the Buildings, are attached hereto as Exhibit "C".

Section 1.2 Establishment of Freehold Estates. Each such separately numbered unit is hereby established as a separate freehold estate, and each such unit shall hereinafter be referred to as a "Home". As used herein Home shall mean "apartment" or "condominium parcel" as defined under the Act.

Section 1.3. Boundaries of Homes. The boundaries of each Home shall be as shown on the Plans and shall extend to the outside (exterior surface) of perimeter exterior walls and to the center line of all common or partition exterior walls. The upper boundaries of each Home shall extend to the exterior surface of the roof over such Home and the lower surface of the Home shall extend through the floor surfaces of the Home to the underlying land. The Home shall also include the garages assigned to the homes as shown on Exhibit "B". If any Horizontal or Vertical boundary line as shown on the Plans does not coincide with the actual location of the respective wall or roof surface of the Home because of inexactness of construction, settling after construction, or for any other reasons, the boundary lines of each Home shall be deemed to be and shall be treated for purposes of occupancy, possession, maintenance, use and enjoyment, as in accordance with the actual existing construction and/or condition. In each case permanent easements for his exclusive use shall exist in favor of the Owner of each Home in and to the space or structural elements lying outside of the apparent boundary of the Home, but within and/or including the appropriate wall or roof surfaces of the Home. All gutters, downspouts, meters, meter pits, exterior trim, and appurtenances located on the exterior of a Home shall be a part of the Home.

Section 1.4. Common Areas. The remainder of the land and improvements subjected to this Declaration shall be "Common Areas" which term shall include all "Common Elements" and all "Common Areas and Facilities" as those terms are used in the Act, and it includes all personal property owned by the Association hereinafter referred to, and any and all real or personal property leased by the Association.

The Common Areas, other than any Limited Common Areas, shall be available to all the Homeowners, and shall include but not be limited to, all driveways and parking areas, lawn areas and such recreational facilities as may be provided. All pipes, wires, ducts, conduits and utility lines located in any walls, ceilings or floors of a Home, and any equipment, stairs or similar items which serve any other Home or any common area shall be part of the Common Areas. The Homeowners Association, hereinafter referred to, shall have an easement thereto, and it shall have the right, at reasonable times and at any time in case of emergency, to enter into all Homes and, to the extent necessary, to enter or go into any walls, floors, or ceilings of a Home to get to any such pipes, wires, ducts, conduits and utility lines, or to any other Common Areas. The Homeowners Association shall repair any damage done to any Home as a result of an exercise of their right.

Section 1.5. Ownership of Common Areas and Percentage Interest. Each Owner shall have an undivided interest in the Common Areas as tenants in common with all other Owners, equal to his Home's Percentage Interest, which interest shall include the right to use such Common Areas subject to any rules and regulations governing such use as may be adopted by the Declarant or the Association. Each Home's Percentage Interest is dependent upon and will vary according to the number of the additional Homes that may be annexed to and made a part of this Condominium.

Each Home shall have a percentage interest in Common Areas of this Condominium which shall be equal to the percentage derived by dividing one (1) by the total number of Homes in

the Condominium.

Section 1.6. Appurtenances to Each Home. The Owner of each Home shall own in the Condominium which are appurtenant to and belong to his Home, including, but not limited to, the items listed below which are appurtenant to several "Homes". No such appurtenances may be severed from the Home and such appurtenances shall pass with the transfer of title to a Home.

(a) Common Areas. Each Home shall be entitled to its percentage interest in the Common Areas as an appurtenance thereto.

(b) Automobile Parking. The Common Areas include parking areas, other than garages which will be part of the Homes. Parking spaces will be subject to regulation by the Association, described in Section 2.1 below.

(c) Association Membership. The membership of each Homeowner in the Association, which term as used in this Declaration shall mean the Association described in Section 2.1 below, and the interest of each Homeowner in the funds and assets held by the Association.

(d) Patios. Each Home shall have the use of adjoining patios as designated in Exhibit "C" which patios shall be a Limited Common Area restricted to the use of such Home.

(e) Land. The land in the Condominium shall be a Common Area, but the land underlying each Home shall be a Limited Common Area restricted to the use of such Home.

Section 1.7. Limited Common Areas. Limited Common Areas and Facilities reserved for the exclusive use of Homeowners, their families, servants and invitees, are the paved approach from the curb to the dwelling, the front porch or stoop, and the patios (within the fence lines) attached to the Home, and such other Common Areas as may be designated Limited Common Areas and assigned to the use of one or more Homeowners. The Limited Common Areas and Facilities, here made appurtenant to the respective dwellings, shall not be altered, diminished, or enlarged by any custom or practice of the owners and their neighbors. Limited Common Areas and Facilities shall not be construed or interpreted to be separate and apart from Common Areas and Facilities, but shall only be limited with respect to the reserved use thereof to one or more Homes. The walks between two Homes shall be Limited Common Areas for the use of the Owners of both Homes.

Section 1.8 Encroachments. If any portion of the Common Areas shall encroach upon a Home, or any Home shall encroach upon another Home, then a valid easement shall exist, as hereinafter set forth. If any Home is partially or totally destroyed, and then rebuilt, the Owners of the Home agree that any unintended encroachment upon the Common Areas due to the construction shall be permitted and that a valid easement for such encroachment and the maintenance thereof shall exist. If a Home shall encroach upon any Common Area or upon any other Home by reason of the original construction, or by the non-purposeful or non-negligent act of the Owner, then an easement appurtenant to such encroachment shall exist. If any Common Areas shall encroach upon any Home by reason of original construction or by the non-purposeful or non-negligent act of the Association or of the original developer, then an easement appurtenant to such Common Areas for such encroachment shall exist so long as such encroachment shall exist. If there should be any conflicting easements hereunder, the easement of the Homeowner shall be superior.

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Section 1.9. Supplemental Plot Plans.

The Association and the Declarant each shall have the right, at any time and from time to time, to cause to be prepared and filed of record, supplements or amendments to the Site Plan of the Condominium (Exhibit "B" hereto) in order to show the location of driveways, parking areas, other land improvements, underground pipes, conduits, or lines, utility lines, mains, and easements, and the location of any additional improvements located in the Condominium, for the purpose of establishing of record their location and the fact of their existence. Supplemental Plot Plans will not be used to change the location of any Homes.

ARTICLE II

Association

Section 2.1. Homeowner's Association.

Subject to the rights of the Declarant reserved in Section 5.2 below,

operation and management of the Condominium shall be by The Arbors Association, Inc., a corporation organized as a not-for-profit corporation under the laws of the State of Indiana, which shall fulfill its duties and functions pursuant to the following provisions of this Article II. A copy of the Articles of Incorporation of the Association is attached hereto as Exhibit "D". A copy of the By-Laws of the Association is attached hereto as Exhibit "E".

Section 2.2. Membership in Association. The owner of each Home shall, automatically upon becoming the owner of the Home, be a member of the Association, and shall remain a member of the Association until such time as their ownership ceases for any reason. Membership in the Association shall thus be an appurtenance to each Home in the Condominium and shall pass with the conveyance of the Home to each successive Home owner. Each Homeowner by the acceptance of a deed or other instrument evidencing his ownership interest, shall accept membership in the Association, and shall be subject to the power and authority of the Association.

Section 2.3. Voting Percentage. The owners of each Home as a member shall be entitled to a percentage vote in the Association's affairs equal to its percentage interest in the Common Areas from time to time. The owners of each Home shall collectively be entitled to vote their then percentage interest in the Common Areas. Whenever hereunder the owners are to vote on any matter, such vote shall be by their percentage interest and wherever hereunder a specified percentage of the owners is required, such percentage shall mean votes cast adding up to that percentage, or owners having such an aggregate percentage interest. If any additional areas are annexed to this Condominium, the Homeowners owning Homes in such annexed areas shall also be entitled to a vote in the affairs of the Association equal to their percentage interest in the Common Areas. The By-Laws may provide a procedure for holding such vote, which method may be based upon each Homes unit of interest.

Section 2.4. Board of Directors. The Members shall elect a Board of Directors of the Association annually as prescribed by the By-Laws. The Board of Directors shall manage the affairs of the Association, except that so long as the Declarant owns any Home in the Condominium, there shall be no increases in the annual assessment nor shall there be any special assessments without the Declarant's prior approval.

Section 2.5. Compliance with Documents and Rules and Regulations. The Association shall have the power to promulgate rules and regulations governing the use of the Condominium property including all Common Areas and including the imposition of reasonable rules and regulations for the use of the Homes by Home owners for the common benefit of all Home owners. Each Home owner, tenant, or occupant of a Home, and their guests and invitees, shall comply with the provisions of the Declaration, the By-Laws, and the rules and regulations and the Decisions of the Association or its representatives, as lawfully amended from time to time, and the failure to comply with any such provisions, decisions or regulations, shall be grounds for an action to recover sums due, for damages, or for injunctive relief. So long as the Declarant owns any Home in the Condominium, the powers of the Association set forth herein shall be subject to the rights of the Declarant reserved in Article V hereof.

Section 2.6. Easement of Association. The Association shall have an easement for access to all Common Areas located within a Home, including all pipes, wires, ducts, shafts, conduits, lines, and any structural element serving more than one Home, or serving any other Common Area. This easement is also reserved for the benefit of the Declarant so long as Declarant owns any Home in the Condominium.

Section 2.7. Delegation by Association. Nothing in this Declaration shall limit the discretion of the Board of Directors of the Association to delegate authority to any officer, manager or a management agent, except the power to decide disputes between or among owners of Homes located on the property.



Section 2.8. Professional Management. The Association, upon and after assuming control of the Common Areas of the Condominium, shall contract with a reputable management service for the provision of accounting, bookkeeping and managerial services to include the preparation of, notices for and collection of all assessments and the preparation of notices for all meetings or of any other kind required by this Declaration, and the performance of such other services as the Board of Directors may designate. The expenses for such managerial services shall be Common Expenses. Nothing hereunder shall be deemed to require the employment of a resident agent for the project, however.

ARTICLE III

Use Restrictions

Section 3.1. Residential Purposes. All Homes contemplated in the Condominium shall be, and the same hereby are, restricted exclusively to residential use. All Homes shall be of new construction. They may be connected or they may be separated from other Homes. No structures of a temporary character, trailer, basement, tent, shack, carport, garage, barn, or other outbuilding shall be used as a residence on any portion of the property at any time either temporarily or permanently. Nothing shall be done or permitted in any Home which would structurally change any Building, unless first approved in writing by the Board of Directors.

Section 3.2. Construction and Sale Period. Notwithstanding any provisions contained herein to the contrary, it shall be expressly permissible for the Declarant or the builder of said Homes and structures to maintain, during the period of construction and sale of said Homes, upon such portion of the property as the Declarant may deem necessary, such

facilities as in the sole opinion of the Declarant may be reasonably required, or be convenient or incidental to the construction and sale of the said Homes, including, but without limitation, storage areas, construction yards, signs, model residences, construction offices, sales offices and business offices.

Section 3.3. Outside Planting. No Owner shall plant any trees, landscaping or do any gardening in any Common Areas or areas other than patio areas except with express permission from the Board.

Section 3.4. Animals and Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any part of the property, except that dogs, cats or other household pets may be kept by the respective owners in their respective Homes provided that they are not kept, bred or maintained for any commercial purposes and do not endanger the health or, in the sole discretion of the Association's Board of Directors, unreasonably disturb the owner of any Home or any resident thereof.

Section 3.5. Signs and Business Activities. No advertising signs, (other than normal "for sale" signs), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on the property, nor shall the property be used in any way or for any purpose which may endanger the health of or unreasonably disturb the owner of any Home or any resident thereof. No business activities of any kind whatever shall be conducted in any building or in any portion of the property; provided, however, the foregoing covenants shall not apply to the business activities, signs, and billboards of the Declarant, its agents or assigns during the construction and sale period.

Section 3.6. Clotheslines, Garbage Cans, Etc. All clotheslines, equipment, garbage cans, service yards, woodpiles and storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring residences and streets. All rubbish, trash and garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon. All clotheslines shall be confined to patio areas.

Section 3.7. Patios and other Common Areas. Except in the individual patio adjacent to a Home, no planting or gardening shall be done, and no fences, hedges, or walls shall be erected or maintained upon the property except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Association's Board of Directors or their designated representatives. The height and types of planting permitted in a patio may be regulated by the Association. Patio areas shall not be covered nor shall any awnings or similar structures be placed over patios, unless prior written consent is obtained from the Board of Directors. If any gates are installed to the patio areas, they shall not be locked or otherwise constructed in a manner that will prevent access by any persons reading meters for utility companies. It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the mutual benefit of all owners in the Condominium and is necessary for the protection of said Owners.

Section 3.8. Exterior Antennae. Without prior written approval and authorization of the Board of Directors no exterior television or radio antennae of any sort shall be placed, allowed or maintained upon any portion of the improvements to be located upon the property nor upon any structure situated upon the property other than an aerial for a master antenna system, should any such master system or systems be utilized and require any such exterior antenna.

Section 3.9. Leasing of Residences. Entire residences may be rented provided the occupancy is not for less than one (1) month and such occupancy is only by the lessee and his immediate family or as may be approved or otherwise provided for by the Association's Board of Directors. No room may be rented and no transient tenants accommodated. This Section 3.9 shall not apply, however, to any lease or leases which may be entered into by the Declarant.

Section 3.10. Delegation of Use. Any Homeowner may delegate, in accordance with the By-Laws, his rights of enjoyment in the common areas and facilities to the members of his family, his tenants, or contract purchasers who reside on the property, but only to such person.

Section 3.11. Rights of Homeowners. Every Homeowner shall have the right and easement of enjoyment in and to the Common Areas, which shall be appurtenant to, and shall pass with the title to every Home, subject to the following provisions:

(a) The right of the Association to charge reasonable admission, maintenance, and other fees for the use of any facilities situated upon the Common Areas, and to make other charges as herein provided.

(b) The right of the Association to suspend the voting rights and right to use Common Areas and facilities by any Homeowner for any period in which any assessment against his Home remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules or regulations.

(c) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility, for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of the Homeowners agreeing to such dedication or transfer has been recorded, although the Board of Directors of the Association may grant underground utility easements without the necessity of Homeowner approval.

(d) The right of the Association to restrict portions of the Common Areas for parking, or for other uses that may be equitable among the members.

(e) The right of the Association to adopt reasonable rules and regulations governing the use of the Common Areas, or which otherwise are deemed by it to be for the common good of all Homeowners.

Section 3.12. Noise and Nuisance. No noxious or offensive activity shall be carried on in any apartment unit, nor shall anything be done or be permitted to remain in any apartment unit which may be or become a nuisance or annoyance to the other co-owners. Residents of The Arbors shall exercise extreme care not to disturb other residents with excessive noise or the use of radios, musical instruments, telephone, amplifiers and speakers.

ARTICLE IV

Common Expense

73 73689 Section 4.1. Common Expenses. Common Expenses shall include all expenses of administration, expense of

insurance, maintenance, operation, repair and betterment of the Common Areas; rent, maintenance and other costs relating to recreational facilities; and any other costs or expenses declared to be Common Expenses under this Declaration, the Articles of Incorporation and the By-Laws; and any other valid charge against the Condominium property as a whole or which is duly adopted by and voted on by the Association. Common Expenses shall include any special assessments voted by the members of the Association.

Section 4.2. Sharing of Common Expenses. Each of the separate Homeowners shall share in any profits and be liable for a share of the Common Expenses in proportion to their percentage interest in the Common Areas. The Board of Directors of the Association may vote to round off the monthly payment of Common Expenses assessed against each Home to the nearest even multiple of One Dollar (\$1.00) or of Fifty Cents (\$.50), or it may vote to round off such monthly assessment to the next higher even multiple of Fifty Cents (\$.50).

Section 4.3. Common Expenses After Annexation of Additional Areas. If and as areas are annexed and become subject to this Declaration, the Common Expenses relating to all Common Areas shall thereafter be divided among all the Homeowners according to their then percentage interests, but subject to the provisions of Section 4.2 above.

Section 4.4. No Exemptions. No owner of a Home may exempt himself from liability for his contribution towards the Common Expenses by waiver of the use and enjoyment of any of the Common Areas or by the abandonment of his Home.

Section 4.5. Budget. A budget of all anticipated common expenses, including capital expenditures and/or reserves if any, shall be prepared for each fiscal year of the Association. Such budget shall be reviewed by the Homeowners in advance of the beginning of the fiscal year.

Section 4.6. Annual and Special Assessments. Common Expenses shall be assessed to the Homeowners, either as an Annual Assessment, or as a Special Assessment, proportionately in accordance with their respective percentage interest in the Common Areas, as set forth below:

(a) An Annual Assessment shall be made for each fiscal year of the Association for all normal and usual operating expenses of the Condominium, including reserves. It shall be paid in twelve (12) equal monthly installments and shall be due and payable on the first day of each calendar month. The amount of the Aggregate Annual Assessments shall be equal to the total amount of expense provided for in the annual budget, including reserve items.

(b) Special Assessments may be made for any unusual and/or extraordinary items, including for capital expenditures, and for any unanticipated items. Special Assessments shall be payable in such amounts and at such times as may be provided in the resolution or other formal proposal setting forth the terms of such Special Assessment.

(c) An extra Annual Assessment may be made against any Homes having the use of Limited Common Areas which are not then generally available to all Homeowners equally as a charge for the maintenance and upkeep of such Limited Common Areas, or for any other charges or expenses attributable to such Limited Common Areas. Such assessment may be imposed as a condition to the improvement of such areas. Also if any taxes or assessments are levied on Common Areas and provision is not made therefor in the budget, the annual assessments of all Homes shall be raised proportionately to cover such taxes.

(d) The annual and special assessments, together with interest, costs and reasonable attorneys fees, shall be a continuing lien on the property upon which each such assessment is made as each installment thereof becomes payable. Each such assessment, together with interest, costs and reasonable attorneys fees, shall also be the personal obligation of the person who was the owner of the Home at the time the assessment was payable.

Section 4.7. Non-Use for Home Maintenance. Except as otherwise provided herein and in the By-laws, each Homeowner shall be responsible for the maintenance, repair, decoration and replacement within his own Home, and none of the assessments levied by the Association shall be used for that purpose. The Association may perform repair work on a Home, if a Homeowner shall fail to maintain a Home, and charge the cost thereof to the Owner, which cost shall be secured by the lien of the Association on such Home.

Section 4.8. Limitation on Assessments. During the fiscal year ending April 30, 1974, the maximum Annual Assessment shall be \$ 552.00 per year payable in monthly installments of \$ 46.00 plus any additional assessment imposed pursuant to Section 4.6(c) above.

So long as the Declarant manages the Condominium the Annual Assessment shall not be increased more than a cumulative average of 6 percent per year unless such larger increase is approved by a vote of 67% of the members voting in person or by proxy at a meeting duly held after the members have been notified that such meeting would consider the budget for the following year and that an increase averaging more than 6% per year is likely. Such maximum percentage increase shall be computed by compounding the annual assessment during the fiscal year referred to above at the rate of 6% per year until the then current fiscal year.

Section 4.9. Procedure for Special Assessments. In addition to the annual assessments authorized above, the Association may levy in any year special assessments for the purpose of defraying, in whole or in part, the cost of any construction, repair or replacement of a capital improvement upon the Common



Areas including fixtures and personal property relating thereto, and any other Common Expenses of an unusual, extraordinary, or unanticipated nature, providing that any such assessment shall have the assent of 67% of the votes of the members of the Association who are voting in person or by proxy at a meeting called for this purpose. However, Special Assessments required because of an insufficiency of insurance shall not be subject to any vote by the Homeowners.

Section 4.10. Notice of Meetings for Assessments.

Written notice of any meeting called for the purpose of taking any action authorized under Section 4.6(b) and 4.9 above, shall be sent to all members not less than fourteen (14) days, nor more than sixty (60) days in advance of the meeting. At the first such meeting there being present members or proxies entitled to cast sixty percent (60%) of all votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 4.11. Commencement of Assessments. Annual Assessments provided for herein shall be made for each fiscal year of the Association, and the first monthly payment of each annual assessment shall be due on the first day of the first month of each fiscal year. The annual assessment for the fiscal year in which occurs the conveyance of the first Home in the Condominium to a Homeowner shall be established by the Declarant. No Home shall be liable for payments of the annual assessment until the Home is conveyed by the Declarant to a Homeowner, or is leased by Declarant. If the Declarant shall lease a Home then the lessee, so long as he is leasing such Home from the Declarant shall have the right to use all Common Areas to the same extent as if he were a Homeowner under this Declaration. The Homeowner shall pay a prorated monthly assessment for the month in which conveyance occurs. The Board of Directors, or the Declarant, if it exercises its reserved rights therefor under Article V, shall if possible

fix the annual assessment against each Home at least seven (7) days before the beginning of the fiscal year for which assessed. Written notice of the amount of such annual assessment shall be sent to all Homeowners subject thereto. The Association shall, upon due request and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a designated Home have been paid, and if not, the amount of the unpaid and delinquent assessment. If there are any special assessments, such certificates shall include the same information with respect to the special assessment.

Section 4.12. Delinquent Assessment. Any assessment not paid within thirty (30) days after the date due shall bear interest from the date when due, at the rate of eight percent (8%) per annum, or such other interest rate as the Board of Directors of the Association may set. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property.

Section 4.13. Lien of Assessments. All sums assessed by the Association, but unpaid, for the share of the Common Expenses chargeable to a Home together with attorneys fees and the costs of collection thereof, shall constitute a lien on such Home prior to all other liens, except only:

(a) Tax liens on the Home in favor of any assessing unit or special district; and

(b) All sums unpaid on the first mortgage of record.

The sale or transfer of any Home by foreclosure or by deed in lieu of foreclosure by or to the First Mortgagee shall not be subject to lien of such assessments for the period prior to such foreclosure or deed in lieu of foreclosure. The lien for sums assessed may be foreclosed by a suit by the manager or Board of Directors acting on behalf of the Owners of such Homes in like manner as a mortgagee of the property. In any such foreclosure the Homeowner shall be required to pay a reasonable rental for the family unit, and the plaintiff in such foreclosure action shall be entitled to the appointment of a

receiver to collect same. The Manager or Board of Directors acting on behalf of the owners or the Association shall have power to bid in the unit at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosing or waiving the lien securing the same. Any foreclosure sale or deed in lieu thereof, shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No such sale or transfer shall relieve the Home from liability for any assessment thereafter becoming due or from the lien thereof.

Section 4.14. Liability of Grantee. In a voluntary conveyance of a Home the grantee of the Home shall be jointly and severally liable with the grantor for all unpaid assessments by the Association against the latter for his share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the manager or Board of Directors of the Association, as the case may be, setting forth the amount of the unpaid assessments against the grantor due the Association if he shall so request, and once having been furnished with such a statement, such person shall not be liable for, nor shall the Home conveyed be subject to a lien for, any unpaid assessments made by the Association against the grantor in excess of the amount therein set forth, plus costs of collection of such sums, if applicable.

ARTICLE V

Declarant's Rights

Section 5.1. Use of Property. Declarant reserves the right to grant easements for utilities and other reasonable purposes across Common Areas, to use any of the Homes as models and to sell, assign or conduct other businesses in connection with the construction and development of the project from any of such Homes prior to their being sold. This reservation of right or privilege in the Declarant includes, but is not limited to, the right to maintain a model, erect signs, maintain an office, staff the office with employees, and to use any and all of the Common Areas and to show Homes then unsold. Any improvements placed on the lands of the Condominium for the purpose of such sales, such as signs, sales and other signs, telephones, or any other promotional items shall not be considered Common Areas nor attachments to the property, but shall remain the property of the Declarant and may be removed at any time convenient to the Declarant. The Declarant retains the right to be considered an owner of any Home that remains unsold. Declarant also reserves the right to make prudent changes in the location or manner of construction of buildings and other improvements.

Section 5.2. Management. Declarant shall have the exclusive right to manage the Condominium and to perform all the functions of the Condominium until it shall have sold and conveyed or leased 88 Homes in the Condominium and for the balance of the fiscal year in which the 88th Home is conveyed or leased, but not more than 7 years from the date of recording of this Declaration. Declarant's right to manage the Condominium shall be to manage the Common Areas, to adopt rules and regulations, to set annual assessments subject to the limitations herein contained, and to adopt the rules and regulations governing the use of the Condominium. Such rights shall be subject to the following:

(a) Declarant shall manage the Common Areas and it shall have the right to assess the Homeowners sums equal to the amount set forth in the Declaration for the annual assessment during the year in which the first conveyance of a home is made to a Homeowner. After the first year in which a conveyance is made to a Homeowner, Declarant may increase the amount of the annual assessment to the Homeowners, provided such increase shall not exceed the maximum percentage increase permitted without a vote of the members in Section 4.8 above, unless the members of the Association shall approve such increase.

(b) Declarant shall have the right to transfer the management of the Condominium to the Association at any time it believes that the Association is able to manage the Condominium without undue difficulty. Declarant agrees, however, to continue to manage the Condominium property at the same per unit cost as had been established, for the balance of the fiscal year in which the Declarant terminates its right to manage the Condominium. If Declarant shall no longer be willing to manage the Condominium, and Common Areas, it shall notify the Association at least sixty (60) days prior to the end of the fiscal year, or Declarant shall, at the option of the Association, be obligated to manage the Common Areas for the following fiscal year. So long as the management of the Association is being borne by the Declarant, the rights of the Association to manage the property and set assessments shall be suspended.

Section 5.3. Declarant's Easement for Adjoining Property. Declarant reserves the right to grant an easement over the driveways and walks of the Condominium in order to provide access through the Condominium to and from the Declarant's property adjoining the Condominium for the benefit of the owners of property interests in such Property, their tenants, invitees and guests. Declarant further reserves the right to permit owners of all or any portion of the adjoining property, their tenants, invitees and guests, to use the recreational facilities of the Condominium, provided that such persons pay a pro rata share of the operating and maintenance cost of such recreational facilities; that all persons having the right to use the same shall abide by the reasonable rules and regulations adopted by the Association governing such use; and that the number of families permitted to use such recreational facilities shall not exceed 111. Such rights shall not be limited to the Adjacent Property as herein defined.

ARTICLE VI

Rights and Liabilities of Homeowners

Section 6.1. Separate Mortgages of Units. Each owner of a Home shall have the right to mortgage or encumber his own Home together with his respective ownership interest in the Common Areas. No owner of a Home shall have the right or authority to mortgage or otherwise encumber in any manner whatsoever the property or any part thereof except his own Home and its percentage interest in the Common Areas as aforesaid.

Section 6.2 Separate Real Estate Taxes. Real Estate Taxes are to be separately taxed to the owner of each Home, including his share of ownership in the Common Areas, as provided in the Act. If for any year such taxes are not separately taxed to the owners of the Homes, but are taxed on the property as a whole, then each Homeowner shall pay his proportionate share thereof in accordance with his respective percentage interest in the Common Areas.

Section 6.3. Maintenance by Homeowners. The owner of each Home shall furnish and be responsible for, at his own expense, all the maintenance, repairs and replacements within his Home, including the heating and air conditioning system and any partitions and interior walls. Maintenance, repairs, and replacements of the refrigerators, ranges, and other kitchen appliances and lighting fixtures shall be at the expense of each Homeowner.

If due to the negligent act or omissions of a Homeowner or of a member of his family or household pet or of a guest or other occupant or visitor of such owner, damage shall be caused to the Common Areas or to a Home owned by others, or if maintenance, repairs or replacements shall be required which would otherwise be at the Common Expense, then such Homeowner shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Association, unless such loss is covered by the Association's insurance with such policy having a waiver of subrogation clause. Maintenance, repairs and replacements to the Common Areas or the Homes shall be subject to the rules and regulations of the Association.

To the extent that equipment, facilities and fixtures within any Home shall be connected to similar equipment, facilities or fixtures affecting or serving other Homes or any Common Areas, then the use thereof by the owner of such Home shall be subject to the rules and regulations of the Association. The authorized representatives of the Association or Board of Directors or the manager or managing agent for the Association, shall be entitled to reasonable access to any Home as may be required in connection with maintenance, repairs or replacements of or to the Common

Areas or any part thereof, or any equipment, facilities or fixtures affecting or serving other Homes or any Common Areas.

The owner of each Home shall be responsible for his maintenance, repair and replacement of all windows in his Home and also the doors leading into the Home.

Section 6.4. Decorating. The owner of each Home shall furnish and be responsible for, at his own expense, all of the decorating within his Home from time to time, including painting, wall papering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lamps and other furnishings and interior decorating. The owner of each Home shall be entitled to the exclusive use of the interior surfaces of the perimeter walls, floors and ceilings, and such owner shall maintain such interior surfaces in good condition at his sole expense. Decorating of Common Areas (other than the interior surfaces within a Home as provided above), and any re-decorating of a Home to the extent made necessary by any damage or existing decorating of such Homes caused by maintenance, repair, or replacement work on the Common Areas by the Association, shall be furnished by the Association as a part of the Common Expenses. The Association may also repair, and maintain Limited Common Areas, even though the same are assigned to individual Homes.

#### ARTICLE VII

##### Maintenance, Control and Insurance

Section 7.1. Maintenance of Common Areas. The Association shall be responsible for the maintenance, repair and replacement of all the Common Areas of the Condominium. The Association shall also be responsible for such maintenance, repairs, and replacements as may be required for the bringing of utility services to the Homes. All maintenance, repairs and replacements required of the Association shall be a Common Expense. However, the Association, or the Declarant, may provide that all or certain of the Limited Common Areas shall be maintained by the Homeowners rather than the Association. In any event the Association shall maintain all unfenced lawn areas.



Section 7.2. Maintenance Obligations of Association with Respect to Homes. The Association shall maintain, restore, and replace the following portions of a Home, whether the same be damaged or destroyed by ordinary wear and tear, fire, destruction, or in any other manner:

1. The exterior of any building, including the exterior materials, but excluding the doors, windows and window frames. However, the Association shall paint garage doors.
2. The roofs of the Homes, which shall include any portion of a Home located above the upper surface of the rafters. The Association shall also maintain, replace and restore any structural elements of the building or roof located below such plane or planes, provided, however, that interior walls shall not be deemed a structural element as that term is used herein.
3. All gutters, downspouts and exterior trim, located on the exterior of a building shall be maintained, repaired and replaced by the Association as a Common Expense even if owned by the Homeowners. The Association shall maintain the exterior of patios. The Homeowner shall maintain the concrete areas inside his patios.
4. The Association shall repair and restore any damage it may have done resulting from its access and any activities within any portion of a Home by the Association or its agents and employees. The cost of all such repairs by the Association shall be charged as a Common Expense and prorated among all the Owners, except to the extent that such repair work is caused by or necessitated by the negligence of a Homeowner or a member of his family, or his guests or invitees, in which case the Homeowner shall be obligated to reimburse the Association for the cost of such repairs as provided in Section 6.3 of this Declaration.
5. The Association may permit its employees to do minor repairs and service work in and to a Home provided the same services are generally available to all Homeowners. However, it may make reasonable charges for such services and/or it may wholly prohibit or otherwise restrict rendering such services.

Section 7.3. Architectural Control. No building, fence, wall or other structure, shall be commenced, erected, or maintained upon the properties nor shall any exterior addition to or change or alteration thereon other than by the Declarant or its successors or assigns, be made until the plans and specifications showing the nature, kind, shape, height, material, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee appointed by the Board. The Association may impose reasonable restrictions on the manner of performance of such work, time limits for its completion, and other restrictions, either as a condition of its approval, or otherwise. The Association may also require any such work to be done by a bonded contractor. If the Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Common Areas will remain undivided; no owner shall bring any action for partition, it being agreed that this restriction is necessary in order to preserve the rights of the owners with respect to the operation and management of the Condominium. Also the Association shall have an easement to all Common Areas including Common areas located within any walls of any structures or Homes located on the property subject to this Declaration, and the Association shall have no liability whatsoever for entering any portion of such easement areas, including cutting through the walls of any unit or similar damage to a Home, provided, however, that the

Association shall repair any damages committed by it to a Home, in a reasonable manner, and at its own expense. Any change in the appearance or the color or any part of the exterior of a Home shall be deemed a change thereto and shall require the approval therefor as above provided.

Section 7.4. Insurance. The Association, acting through its Board of Directors, shall from time to time obtain fire and extended coverage insurance insuring the real property in the Condominium in an amount equal to the then maximum insurable value thereof. The Association shall review the amounts of such insurance not less often than annually, and shall purchase such additional insurance as is necessary to provide adequate insurance indemnity. Such insurance coverage shall be for the benefit of each Owner, and, if applicable, the Owner's Mortgagee. The proceeds shall be payable to the Association or the Board of Directors, who shall hold such proceeds as trustee for the individual Owners and Mortgagees. The interest of each Owner and his Mortgagee in such proceeds shall be as provided in the By-Laws.

The Association shall also obtain comprehensive public liability insurance for the Common Areas in such limits as the Board of Directors shall deem appropriate, together with Workmen's Compensation Insurance and other liability insurance, if deemed necessary or appropriate by the Board of Directors. Such insurance shall inure to the benefit of each individual Owner, the Association, the Board of Directors, and any manager or company acting on behalf of the Association. All such insurance policies shall include a provision that Owners or lessees of Homes, even though members of the Association, shall in appropriate circumstances be able to recover damages as claimants under such insurance.

The premiums for all such insurance shall be paid by the Association as part of the Common Expenses.

Each Owner shall have the right to purchase any additional insurance he may deem necessary, and each Owner shall be solely responsible for insurance on the contents of his own Home, including all floor and wall coverings, and fixtures and betterments installed by the Owner, and fixtures and betterments stored elsewhere on the Condominium, as well as insurance coverage for additional living expense as may be occasioned by the rebuilding of any Homes as may be required under Section 10.4. It shall be the individual responsibility of each Owner, at his own expense, to provide as he sees fit, homeowner's liability insurance, theft and other insurance covering personal property damage and loss.

ARTICLE VIII

Section 8.1. Disputes. Matters of dispute or disagreement between owners or with respect to interpretation of the application of the provisions of this Declaration or By-Laws or any rules or regulations promulgated by the Association, shall be determined by the Board of Directors of the Association, which determination shall be final and binding upon all Homeowners. If the Association shall deem it to be advisable, it shall have the power to employ experts to advise it in the settling of disputes and to charge the cost thereof as a Common Expense.

Section 7.3. Architectural Control. No building, fence, wall or other structure, shall be commenced, erected, or maintained upon the properties nor shall any exterior addition to or change or alteration thereon other than by the Declarant or its successors or assigns, be made until the plans and specifications showing the nature, kind, shape, height, material, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee appointed by the Board. The Association may impose reasonable restrictions on the manner of performance of such work, time limits for its completion, and other restrictions, either as a condition of its approval, or otherwise. The Association may also require any such work to be done by a bonded contractor. If the Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Common Areas will remain undivided; no owner shall bring any action for partition, it being agreed that this restriction is necessary in order to preserve the rights of the owners with respect to the operation and management of the Condominium. Also the Association shall have an easement to all Common Areas including Common areas located within any walls of any structures or Homes located on the property subject to this Declaration, and the Association shall have no liability whatsoever for entering any portion of such easement areas, including cutting through the walls of any unit or similar damage to a Home, provided, however, that the

Association shall repair any damages committed by it to a Home, in a reasonable manner, and at its own expense. Any change in the appearance or the color or any part of the exterior of a Home shall be deemed a change thereto and shall require the approval therefor as above provided.

Section 7.4. Insurance. The Association, acting through its Board of Directors, shall from time to time obtain fire and extended coverage insurance insuring the real property in the Condominium in an amount equal to the then maximum insurable value thereof. The Association shall review the amounts of such insurance not less often than annually, and shall purchase such additional insurance as is necessary to provide adequate insurance indemnity. Such insurance coverage shall be for the benefit of each Owner, and, if applicable, the Owner's Mortgagee. The proceeds shall be payable to the Association or the Board of Directors, who shall hold such proceeds as trustee for the individual Owners and Mortgagees. The interest of each Owner and his Mortgagee in such proceeds shall be as provided in the By-Laws.

The Association shall also obtain comprehensive public liability insurance for the Common Areas in such limits as the Board of Directors shall deem appropriate, together with Workmen's Compensation Insurance and other liability insurance, if deemed necessary or appropriate by the Board of Directors. Such insurance shall inure to the benefit of each individual Owner, the Association, the Board of Directors, and any manager or company acting on behalf of the Association. All such insurance policies shall include a provision that Owners or lessees of Homes, even though members of the Association, shall in appropriate circumstances be able to recover damages as claimants under such insurance.

The premiums for all such insurance shall be paid by the Association as part of the Common Expenses.

Each Owner shall have the right to purchase any additional insurance he may deem necessary, and each Owner shall be solely responsible for insurance on the contents of his own Home, including all floor and wall coverings, and fixtures and betterments installed by the Owner, and fixtures and betterments stored elsewhere on the Condominium, as well as insurance coverage for additional living expense as may be occasioned by the rebuilding of any Homes as may be required under Section 10.4. It shall be the individual responsibility of each Owner, at his own expense, to provide as he sees fit, homeowner's liability insurance, theft and other insurance covering personal property damage and loss.

ARTICLE VIII

Section 8.1. Disputes. Matters of dispute or disagreement between owners or with respect to interpretation of the application of the provisions of this Declaration or By-Laws or any rules or regulations promulgated by the Association, shall be determined by the Board of Directors of the Association, which determination shall be final and binding upon all Homeowners. If the Association shall deem it to be advisable, it shall have the power to employ experts to advise it in the settling of disputes and to charge the cost thereof as a Common Expense.

ARTICLE IX

Annexation

Section 9.1. Declarant's Right of Annexation.

Declarant reserves for a period of seven (7) years, the right to annex to this Condominium, all or any part of the Adjacent Property. Such annexation may be accomplished in one or more phases, and may include all or any part of the Adjacent Property. Declarant agrees, however, that there shall not be more than a total of 111 Homes included in this Condominium.

Section 9.2. Reserved Power of Attorney. The

Deed conveying each Home may reserve or cause to be granted a power of attorney in the Declarant to annex such additional areas to this Condominium, and to file Amendments and/or Supplements to the Declaration to accomplish the annexation of such areas hereto. Such Amendments or Supplements to the Declaration shall also set forth the interest of each Homeowner in the Common Areas so that each Homeowner will own a percentage interest in all Common Areas in accordance with the provisions of Section 1.5 above.

Section 9.3. Reallocation of Percentage Interests.

The percentage interest in the Common Areas allocated to each Home shall automatically be shifted and reallocated to the extent set forth in each such recorded Supplement or Amendment to the Declaration and upon the recording of each Supplement or Amendment



Section 10.3. Amendment. Amendments to this Declaration shall be proposed and adopted in the following manner:

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

(b) Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Directors of the Association or by at least a majority of the Homeowners.

(c) Meeting. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly held in accordance with the provisions of the By-Laws.

(d) Adoptions. During the first twenty (20) year period any proposed amendment to this Declaration must be approved by a vote of not less than ninety percent (90%) of the Homeowners entitled to vote. Thereafter any proposed amendment to this Declaration must be approved by a vote of not less than sixty-seven percent (67%) of the Homeowners entitled to vote. In the event any Home is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as a Homeowner if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions of the By-Laws.

(e) Special Amendments. This Declaration shall not be revoked, or terminated, nor shall any amendment to this Declaration be adopted which changes the provisions of Section 10.4 of this Declaration with respect to reconstruction or repair in the event of fire or casualty, without the unanimous approval of all Homeowners and Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of the By-Laws.

(f) Recording. Each amendment to the Declaration and each Supplemental Declaration shall be executed by the President and Secretary of the Association, or by the Declarant, and shall be recorded in the Office of the Recorder of Marion County, Indiana,

and such amendment shall not become effective until recorded.

Section 10.4. Casualty and Restoration. In the event of damage or destruction of the Condominium by fire or other casualty, the following provisions shall be applicable:

(a) Partial Destruction. In the event that less than two-thirds (2/3) of the Homes are destroyed by the occurrence of fire or other casualty, then the Association shall cause the Condominium to be repaired and restored promptly. The proceeds of the insurance carried by the Association shall be applied to the cost of such restoration. If the insurance proceeds are not adequate to cover the cost of reconstruction, or in the event there are no proceeds, the excess cost of restoring the damage shall be paid by the Homeowners as set forth in the By-Laws. For purposes of the Act, this Section 10.4, and the By-Laws, no Home located in a building other than that in which the fire or other casualty occurs shall be deemed to be directly affected by the damage. If any Owner, or Owners, refuses or fails to make the required payments, the other Owners shall (or the Association, if such other Owners fail) complete the restoration and pay the cost thereof, and the costs attributable to the Owner or Owners who refuse or fail to make such payments at the time required by the Board of Directors shall become a lien on such defaulting Owners' Home and may be foreclosed in the same manner as provided for the lien for common expenses.

(b) Restoration in the Event of Two-Thirds Destruction. In the event that the whole or more than two-thirds (2/3) of the Homes are destroyed by fire or other casualty, then

restoration of the Homes must be approved by a unanimous vote of the Homeowners. If such a vote is not forthcoming, the insurance indemnity shall be delivered to the Owners entitled to it in accordance with the By-Laws. If within 120 days from the date of damage or destruction the restoration of the Homes has not been approved by the Association, the property shall be deemed owned in common by all of the Owners and the provisions of the Act shall apply.

(c) Restoration Defined. Restoration, for purposes of sub-paragraphs (a) and (b) above, shall mean construction or rebuilding of the Homes to the same condition as they existed immediately prior to the destruction and with the same type of architecture.

Section 10.5. Recreation Facilities. It is understood that the Recreation Facilities of the Condominium, including the club house, are designed to accommodate one hundred eleven (111) family units. The Association, and the Declarant, shall have the right to permit families other than the Homeowners, to use such facilities, subject to the following limitations:

(a) The aggregate number of families who shall be authorized to use such facilities in any year, including Homeowners, shall not exceed 111.

(b) Each family permitted to use such facilities, who is not a Homeowner, shall be charged a fair pro rata share of the cost of owning, maintaining and operating such facilities. The Association or the Declarant if it is managing the Condominium may determine the method of designating persons authorized to use such facilities and of collecting other charges for their use of such facilities.

(c) No family who is not a Homeowner shall be given the right to use the Recreational Facilities of the Condominium for longer than one year at a time.

(d) The Association, or the Declarant if it is managing the Condominium may establish reasonable rules and

regulations governing the transfer of the right to use the Recreational Facilities and for identifying the persons having such right.

Section 10.6. Cost and Attorneys' Fees (a) In any proceeding arising because of failure of an Owner to make any payments required or to comply with any provisions of the Declaration, the Act, the By-Laws, or rules and regulations adopted pursuant thereto, as each may be amended from time to time, the Association shall be entitled to recover its costs and reasonable attorneys' fees incurred in connection with such default or failure. Such costs and attorneys' fees shall be secured by the Association's lien on each Home.

Section 10.7. Rights of Mortgagees. If any mortgagee of a Home shall so request, he shall be given notice at least thirty (30) days prior to the effective date of any changes in the Condominium document, other than supplemental declarations which only annex additional areas pursuant to Declarant's reserved rights, and also of any change in the management agent or manager of the Condominium.

(b) Unless all holders of first mortgage liens on individual Homes of which the Association has been given notice, have given their prior written approval if they so request, the Association shall not:

(i) Fail to employ professional management for the Condominium unless the Declarant is then serving as manager;

(ii) Change the pro rata interest of any Home for purposes of assessment, or change the percentage interest of any Home, other than through the process of annexation of additional areas as provided in Article IX above.

(iii) Petition or sub-divide any unit of the Common Areas of the Condominium; or

(iv) Seek to abandon the Condominium status of the project except as provided by statute in case of loss to the Homes and/or Common Areas.

(c) Each Mortgagee who shall so request shall be entitled to written notice from the Association of any default by a Mortgagor of an individual Home in the performance of the Mortgagor's obligations under the Condominium documents and which is not cured within sixty (60) days.

(d) The Association shall honor any powers of attorney given by any Homeowner to its Mortgagee pursuant to its mortgage documents.

Section 10.8. Definition of Terms. The following terms as used in this Declaration shall have the meanings set forth as follows:

"Declaration" shall mean this Enabling Declaration and any Supplemental Declarations pertaining to this Condominium.

"Declarant" shall mean FALENDER HOMES CORP./INDIANA, its successors and assigns.

"Condominium" shall mean and include all the units and all Common Areas in the project, including any and all property annexed hereto. Such term and the term "Horizontal Property Regime" shall have the same meaning and such terms may be used interchangeably.

"Home" shall have the meaning set forth in Section 1.2. Sometimes the term "unit" may be used herein to refer to a Home.

"Adjacent Property" shall mean the parcel of additional land which is shown on Exhibit "A" as the land that Declarant has the right to annex to the Condominium.



CODE OF BY-LAWS  
OF  
THE ARBORS CONDOMINIUM  
AND OF  
THE ARBORS ASSOCIATION, INC.

ARTICLE I

Identification and Applicability

Section 1.01. Identification and Adoption.

These By-Laws are adapted simultaneously with the execution of a certain Declaration creating THE ARBORS CONDOMINIUM (hereinafter usually called the "Condominium") to which these By-Laws are attached and made a part hereof. The operation of the Condominium shall be by THE ARBORS ASSOCIATION, INC., (the "Association"), to which these By-Laws shall apply.

The Declaration and Articles of Incorporation are incorporated herein by reference, and all of the covenants, rights, restrictions, and liabilities therein contained shall apply to and govern the interpretation of these By-Laws. The definitions and terms as defined and used in this Declaration shall have the same meaning in these By-Laws. The provisions of these By-Laws shall apply to the Property and the administration and conduct of the affairs of the Association.

Section 1.02. Individual Application. All of the Owners, future owners, tenants, future tenants, or their guests and invitees, or any other person that might use or occupy a Home or any part of the Property, shall be subject to the rules, restrictions, terms, and conditions set forth in the Declaration, these By-Laws and the Act.

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ARTICLE II

Meetings of Association

Section 2.01. Purpose of Meetings. At least annually and at such other times as may be necessary, a meeting of the Owners shall be held for the purpose of electing the Board of Directors, approving the annual budget, providing for the collection of Common Expenses, and for such other purposes as may be required by the Declaration, these By-Laws or the Act.

Section 2.02. Annual Meetings. The annual meetings of the members of the Association shall be held on the first Monday or on after April 15 in each calendar year. At the annual meeting the Owners shall elect the Board of Directors of the Association in accordance with the provisions of these By-Laws and transact such other business as may properly come before the meeting.

Section 2.03. Special Meetings. A special meeting of the members of the Association may be called by resolution of the Board of Directors or upon a written petition of the Owners who have not less than fifty percent (50%) of the percentage vote. The resolution or petition shall be presented to the President or Secretary of the Association and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

Section 2.04. Notice and Place of Meetings. All meetings of the members of the Association shall be held at any suitable place in Marion County, Indiana, as may be

designated by the Board of Directors. Written notice stating the date, time and place of any meeting, and in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Association to each Owner. The notice shall be mailed or delivered to the Owners at their address as it appears upon the records of the Association and to any Mortgagee who requests the same in writing at the address as it appears on the records of the Association. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

Section 2.05. Voting.

(a) Number of Votes. To facilitate the orderly conduct of the meetings, each Owner shall have a Percentage Vote and shall be entitled to cast that number of votes on each matter coming before the meeting which is equal to his Home's unit of interest in the Common Areas as set forth in Section 1.5 of the Declaration.

(b) Multiple Owner. Where the Owner of a Home constitutes more than one person, or is a partnership, there shall be only one voting representative entitled to all the Percentage Vote allocable to that Home. At the time of acquisition of a title to a Home by a multiple Owner or a partnership, those persons constituting such Owner or the partners may file with the Secretary of the Association an irrevocable proxy appointing one of such persons or partners as the voting representative for such Home, which shall remain in effect until the partners designate another representative, or such appointed representative relinquishes such appointment in writing, becomes incompetent, dies or such appointment is otherwise rescinded by order of a court of jurisdiction. Such appointed voting representative may grant a proxy to another to vote in his place at a particular meeting or meetings pursuant to paragraph (d) of this Section 2.05, which shall not constitute a permanent relinquishment of his right to act as voting representative for the Home.

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(c) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustee may cast the Percentage Vote on behalf of the trust and the agent or other representative of the corporation duly empowered shall cast the Percentage Vote to which the corporation is entitled.

(d) Proxy. An Owner may vote either in person or by his duly authorized and designated attorney-in-fact. Where voting is by proxy, the Owner shall duly designate his attorney-in-fact in writing, delivered to the Association prior to or at the commencement of the meeting.

(e) Quorum. Except where otherwise expressly provided in the Declaration, these By-Laws or the Act, the Owners representing one-tenth (1/10) of the Percentage Vote shall constitute a quorum at all meetings. The term majority of Owners or majority of Percentage Vote, as used in these By-Laws shall mean the Owners entitled to more than one-half (1/2) of the Percentage Votes in accordance with the applicable percentage set forth in the Declaration, as such may be amended from time to time.

(f) Conduct of Meeting. The Chairman of the meeting shall be the President of the Association. He shall call the meeting to order at the duly designated time and business will be normally conducted in the following manner:

- (1) Reading of Minutes. The Secretary shall read the minutes of the last annual meeting and the minutes of any special meeting held subsequent thereto, but such reading may be waived upon motion.
- (2) Treasurer's Report. The Treasurer shall report to the Owners concerning the financial condition of the Association, and answer relevant questions of the Owners concerning the Common Expenses and financial report for the prior year and the proposed budget for the current year.
- (3) Budget. The proposed budget for the current fiscal year shall be presented to the Owners for approval or amendment.

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(8) Election of Board of Directors. Nominations for the Board of Directors may be made by any Owner from those persons eligible to serve. Such nominations must be in writing and presented to the Secretary of the Association at least ten (10) days prior to the date of the annual meeting. Voting for the Board of Directors will be by paper ballot. The ballot shall contain the name of each person nominated to serve as a Board member. Each Owner may cast the total number of votes to which it is entitled for as many nominees as are to be elected; however, he shall not be entitled to cumulate his votes. Those persons receiving the highest number of votes shall be elected. Each voting Owner shall sign his ballot.

(9) Other Business. Other business may be brought before the meeting only upon written request submitted to the Secretary of the Association at least ten (10) days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed to by a majority of the Percentage Vote.

(6) Adjournment.

ARTICLE III

Board of Directors

Section 3.01. The affairs of the Association and the Condominium shall be governed and managed by the Board of Directors (herein collectively called the "Board" or "Directors" and individually called "Director"). The Board of Directors shall be composed of five persons. No person shall be eligible to serve as a Director unless he is an Owner or is appointed by the Declarant, and no person may serve as a Director who is 30 days or more delinquent in paying any installment of an Annual or Special Assessment.

Section 3.02. Initial Board of Directors. The initial Board of Directors shall be as provided in the Articles, all of which shall be appointed by Declarant. Notwithstanding any other provisions in the By-Laws, or the Declaration, the initial Board shall hold office until the first annual meeting of the Owners which shall be held on the first "empty" on or after April 1, 1979.

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Section 3.01. Additional Qualifications. Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a person or an officer or trustee shall be eligible to serve on the Board of Directors, except that no Homeowner other than the Declarant may be represented on the Board of Directors by more than one person at a time.

Section 3.04. Term of Office and Vacancy. The Board of Directors shall be elected at each annual meeting of the Association. Directors shall hold office for a term of one (1) year or until their successors have been duly elected and qualified.

Any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining Directors or by vote of the Owners if a Director is removed in accordance with Section 3.05 of this Article III.

Section 3.05. Removal of Director. A Director or Directors, except the initial Directors, may be removed with or without cause by vote of the Owners at a meeting duly called constituted. In such case, his successor shall be elected at the same meeting from eligible Owners nominated at this meeting. A Director so elected shall serve until the next annual meeting of the Owners or until his successor is duly elected and qualified.

Section 3.05. Duties of the Board of Directors. The Board of Directors shall provide for the administration of the Condominium, the maintenance, upkeep and replacement of the Common Areas and Limited Areas, and the collection and disbursement of the Common Expenses. These duties include, but are not limited to:

- (a) management, maintenance and repair of the Common Areas.
- (b) procuring of utilities used in connection with the Condominium, removal of garbage and waste, and snow removal from the Common Areas.

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(c) landscaping, painting, decorating, and furnishings of the Common Areas and the exterior of the Buildings, as provided in the Declaration.

(d) surfacing, paving and maintaining streets, parking areas, and sidewalks;

(e) assessment and collection from the Owners of the Owner's pro rata share of the Common Expenses;

(f) preparation of annual budget;

(g) preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year; such accounting shall be delivered to each Owner simultaneously with the delivery of the annual budget;

(h) keeping a current, accurate and detailed record of receipts and expenditures affecting the Property, specifying and itemizing the Common Expenses. All records and vouchers shall be available for examination by an Owner at any time during normal business hours.

Section 3.07. Powers of the Board of Directors.

The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These powers include, but are not limited to, the power:

(a) to employ a managing Agent or a real estate management company (either herein hereinafter referred to as "Managing Agent") to assist the Board in performing its duties;

(b) to purchase for the benefit of the Owners such equipment, materials, labor, and services as may be necessary in the judgment of the Board of Directors;

(c) to procure for the benefit of the Owners fire and extended coverage insurance covering the Buildings and the Property to the full replacement value thereof and to procure public liability and property damage insurance and Workmen's Compensation Insurance, if necessary, for the benefit of the Owners and the Association;

(d) to employ legal counsel, architects, contractors, accountants, and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Condominium.

(e) to include the costs of all of the above and foregoing as a Common Expense and to pay all of such costs therefrom;

(f) to open and maintain a bank account or accounts in the name of the Association;

(g) to determine rules for hiring and firing of personnel necessary for the maintenance, repair and replacement of Common Areas and for approving the payment of vouchers, invoices and the like.

(h) to adopt, revise, amend and alter from time to time reasonable rules and regulations with respect to use, occupancy, maintenance, and enjoyment of the Property;

Section 3.08. Limitation on Board Action. The

authority of the Board of Managers to enter into contracts shall be limited to contracts involving a total expenditure of less than \$2,500.00 without obtaining the prior approval of Owners at a meeting thereof, except in the following cases:

(a) contracts for replacing or restoring portions of the Common Areas or Limited Common Areas damaged or destroyed by fire or other casualty where the cost thereof is payable out of insurance proceeds actually received;

(b) proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Owners at the annual meeting.

(c) Items within the budget need not be approved separately. The Board may also reallocate items in the Budget, if the total budgeted funds for a year are not exceeded and by so doing the total Budget will not be increased.

Section 3.09. Compensation. No Director shall

receive any compensation for his services as such except to such extent as may be held at such time and place as shall be determined from time to time by the Homeowners.

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Section 3.10. 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 President. The Secretary shall give notice of the regular meetings of the Board to each Director personally or by United States Mail at least five (5) days prior to the date of such meeting.

Special meetings of the Board of Directors may be called by the President or any two members of the Board. The person or persons calling such meeting shall give written notice thereof to the Secretary who shall either personally or by mail and at least three (3) days prior to the date of such special meeting, give notice to the Board members. The notice of the meeting shall contain a statement of the purpose for which the meeting is called. Such meeting shall be held at such place and at such time within Marion County, Indiana, as shall be designated in the notice.

Section 3.11. Waiver of Notice. Any Director may, in writing, waive notice of a meeting and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Director at a meeting shall, as to such Director, constitute a waiver of notice of the time, place and purpose thereof. If all Directors are present at the meeting of the Board, notice shall not be required and any business may be transacted at such meeting.

Section 3.12. Quorum. At all meetings of the Board a majority of the Directors shall constitute a quorum for the transaction of business and the votes of the majority of the Directors present at a meeting at which a quorum is present shall be the decision of the Board.

Section 3.13. Non-Liability of Directors.

Directors shall not be liable to the Owners or any other persons for any error or mistake in judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, bad faith or gross negligence. The Owners shall indemnify and hold harmless each of the Directors against any and all liability to any person, firm or corporation arising out of contracts made by the Board on behalf of the Association, unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or By-Laws. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of the Association and that in all matters the Board is acting for and on behalf of the Owners as their agent. The liability of any Owner arising out of any contract made by the Board or out of the aforesaid indemnity in favor of the Directors shall be limited to such percentage of the total liability or obligation thereunder as is equal to his Percentage Interest. Every contract made by the Board or the Managing Agent on behalf of the Association shall provide that the Board of Directors and the Managing Agent, as the case may be, is acting as agent for the Owners and shall have no personal liability thereunder, except in their capacity as Owners and then only to the extent of their Percentage Interest.

Section 3.14. Additional Indemnity of Directors.

The Owners shall indemnify any person, his heirs, assigns and personal representatives, made a part to any action, suit or proceeding by reason of the fact that he is or was a Director of the Association, against the reasonable expenses, including attorneys fees, actually and necessarily incurred

by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such Director is liable for gross negligence or misconduct in the performance of his duties. The Owners shall also reimburse to any such Director the reasonable costs of settlement or of judgment rendered in any action, suit or proceeding, if it shall be found guilty of gross negligence or misconduct in the performance of his duties. The Owners shall also reimburse to any such Director the reasonable costs of settlement or of judgment rendered in any action, suit or proceeding, if it shall be found by a majority of the Owners that such Director was not guilty of gross negligence or misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Director, no Director shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good faith, such Director relied on the books and records of the Association or statements or advice made by or prepared by the Managing Agent or any officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the Association to render advice or service unless such Director had actual knowledge of the falsity or incorrectness thereof; nor shall a Director be deemed guilty of or liable for negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Directors.

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Section 3.15. Bond. The Board of Directors shall give bond and shall require the Treasurer and such other officers as the Board deems necessary to give bond, indemnifying the Association against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as may be provided by the By-Laws or the Board of Directors and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. The expense of such bond shall be a Common Expense.

ARTICLE IV

Officers

Section 4.01. Officers of the Association. The principal officers of the Association shall be the President, Vice President, Secretary and Treasurer, all of whom shall be elected by the Board. The Directors may appoint an Assistant Treasurer and an Assistant Secretary and such other officers as in their judgment may be necessary. Any two or more offices may be held by the same person, except that the duties of the President and Secretary shall not be performed by the same person.

Section 4.02. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the initial meeting of each new Board. Upon an affirmative vote of a majority of all members of the Board, any officer may be removed either with or without cause and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 4.03. The President. The President shall be elected from among the Directors and shall be the chief

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executive officer of the Association. He shall preside at all meetings of the Association and of the Board, shall have and discharge all of the general powers and duties usually vested in the office of president or chief executive officer of an association or a stock corporation organized under the laws of Indiana, including, but not limited to the power to appoint committees from the Owners as he may deem necessary to assist in the affairs of the Association and to perform such other duties as the Board may from time to time prescribe.

Section 4.04. The Vice President. The Vice President shall be elected from among the Directors and shall perform all duties incumbent upon the President during the absence or disability of the President. The Vice President shall also perform such other duties as these By-Laws may prescribe or as shall, from time to time, be imposed upon him by the Board or by the President.

Section 4.05. The Secretary. The Secretary shall be elected from among the Directors. The Secretary shall attend all meetings of the Association and of the Board and shall keep or cause to be kept a true and complete record of the proceedings of such meetings, shall perform all other duties incident to the office of the Secretary, and such other duties as from time to time may be prescribed by the Board. The Secretary shall specifically see that all notices of the Association or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-Laws.

Section 4.06. The Treasurer. The Board shall elect a Treasurer who shall maintain a correct and complete record of account showing accurately at all times the financial condition of the Association and such other duties incident to the office of the Treasurer. He shall be the legal custodian

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of all monies, notes, securities and other valuables which may from time to time come into the possession of the Association. He shall immediately deposit all funds of the Association coming into his hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account in the name of the Association. Another officer may serve as the Treasurer, as may a person who is not a member of the Board of Directors.

Section 4.07. Assistant Officers. The Board of Directors may, from time to time, designate and elect from among the Owners an Assistant Secretary and Assistant Treasurer who shall have such powers and duties as the officers whom they are elected to assist shall delegate to them and such other powers and duties as these By-Laws or the Board of Directors may prescribe.

ARTICLE V

Assessments

Section 5.01. Annual Accounting. Annually, after the close of each calendar year and prior to the date of the annual meeting of the Association, the Board shall cause to be prepared and furnished to each Owner a financial statement prepared by a public accounting firm then serving the Association, which statement shall show all receipts and expenses received, incurred and paid during either the preceding calendar year, or in the alternative the same for the current fiscal year.

Section 5.02. Proposed Budget. Annually, on or before the date of the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget for the ensuing fiscal year estimating the total amount of the Common Expenses for the ensuing year and furnish a copy of such proposed budget to each Owner prior to the annual meeting. The annual budget shall be submitted

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to the Owners at the annual meeting of the Association for adoption, and, if so adopted, shall be the basis for the Annual Assessment for the following fiscal year. At the annual meeting of the Owners, the budget may be approved in whole or in part or may be amended in whole or in part by a majority of the Percentage Vote; provided, however, that if the annual meeting of the Owners is adjourned before an annual budget is approved at such meeting, then the Board of Directors may adopt an annual budget for such year.

Section 5.31. Annual Assessments. Promptly following the adoption of the annual budget, the Board of Directors shall give written notice of the assessment against each respective Home based on its Percentage Interest (herein called the "Annual Assessment"). The Annual Assessment against each Home shall be assessed on a fiscal year basis for the year beginning on \_\_\_\_\_ and shall be due and payable in equal monthly installments, in advance, on the first day of each month. Payment of the monthly installments of the Annual Assessment shall be made to the Board of Directors or the Managing Agent, or otherwise, as directed by the Board of Directors. The Annual Assessment shall automatically become a lien on that Home on the date it is due and payable. The Secretary of the Association shall, upon due request and for a reasonable charge, furnish a certificate setting forth whether the annual and special assessments on a designated Home have been paid, or the amount of any unpaid and delinquent annual or special assessments.

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Section 5.02. Assessments After Annexation. Subsequent to the filing of any Supplemental Declaration and prior to the date the assessment on the annexed portion shall commence, the Board of Directors shall revise the budget to include the additional area and it shall revise the Annual Assessment accordingly; provided, however, such revised Annual Assessment shall not be any greater or increase the amount of the Annual Assessment that an Owner is paying at the time of the revision of the budget.

Section 5.05. Failure of Owner to Pay Assessments. Each Owner shall be personally liable for the payment of all Regular and Special Assessments. Where the owner constitutes more than one person, the liability of such persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular or Special Assessment when due, the lien of such Assessment on the Owner's Home may be foreclosed by the Board of Directors for and on behalf of the Association as provided by law. In any action to foreclose the lien for Assessments, the Owner and occupant shall be jointly and severally liable for the payment to the Association of reasonable rental for such Home and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Home and to collect the rentals and other profits therefrom for the benefit of the Association to be applied to the unpaid Regular or Special Assessment. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Annual or Special Assessment without foreclosing or waiving the lien securing the same. In any action to recover by foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover costs and expenses of such action incurred, including, but not limited to reasonable attorneys fees, from the Owner of the respective Home.

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Section 5.06. Maintenance and Repairs. Every Owner shall promptly perform all maintenance and repair within his own Home, which, if neglected, would affect the value of the Property. Such maintenance and repairs include, but are not limited to, any partitions and interior walls, windows in the Home and all doors leading into the Home, internal water lines, plumbing, electric lines, appliances, gas lines, telephones, air conditioning, doors, windows, lamps and all other accessories belonging to the Owner and appurtenant to the Home.

ARTICLE VI

Right to Enter, Rules and Regulations

Section 5.01. Right of Entry. An Owner or occupant of a Home shall grant the right of entry to the Managing Agent or any other person authorized by the Board in case of any emergency originating in or threatening his Home or the Building in which it is located, whether the Owner is present at the time or not. Any Owner shall permit other persons, or their representatives where so required, to enter his Home for the purpose of inspection or performing installations, alterations or repairs to the mechanical or electrical services, or to make structural repairs, provided that requests for entry are made in advance and that such entry is at a time convenient to the Owner. In case of emergencies, such right of entry shall be immediate.

Section 5.02. Right of Board to Adopt Rules and Regulations. The Board may promulgate such additional rules and regulations regarding the operation of the Property, including but not limited to the use of the Common Areas and Limited Common Areas, as it may deem necessary from time to time and such rules as are adopted may be amended by a vote of a majority of the Board, and the Board shall cause copies of such rules to be delivered or mailed promptly to all Owners.

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ARTICLE VII

Amendment to By-Laws

Section 7.01. These By-Laws may be amended by a vote of not less than sixty-seven percent (67%) of the Percentage Vote of the Owners in a duly constituted meeting called for such purpose, or at an annual meeting.

ARTICLE VIII

Mortgages

Section 8.01. Notice to Association. Any Owner who places a first mortgage lien upon his Home, shall notify the Secretary of the Association and provide the name and address of the Mortgagee or the mortgagee may do so. A record of such Mortgagee and the name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of the Declaration or these By-Laws shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record at the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee as may otherwise be required by the Declaration or these By-Laws shall be required and no Mortgagee shall be entitled to vote on any matter to which he otherwise may be entitled by virtue of the Declaration or By-Laws or proxy granted to such Mortgagee in connection with the mortgage.

Section 8.02. Notice of Unpaid Assessments.

The Association shall, upon request of a Mortgagee, a proposed mortgagee or purchaser who has a contractual right to purchase a Home, furnish to such Mortgagee or Purchaser a statement setting forth the amount of the then unpaid Annual or Special Assessments against the Home, which statement shall be binding upon the Association and the Owners, and any Mortgagee or grantee of the Home shall not be liable for nor shall the Home conveyed be subject to a lien for any unpaid assessments in excess of the amount set forth in such statement.

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ARTICLE IX

Insurance and Use of Proceeds

Section 9.01. Insurance. (a) The Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain insurance for all the Buildings in the Condominium against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard, and shall also obtain a broad form public liability policy covering all Common Areas and Limited Common Areas and all damage or injury caused by the negligence of the Association or any of its agents. Said insurance may include coverage against vandalism and may include loss of occupancy and such other coverage as the Association may deem appropriate. All such insurance coverage, including insurance on individual buildings obtained by the Board of Directors shall be written in the name of the Association as Trustee for each of the Owners, in proportion to their respective units of interest in the Condominium. Additional insurance on individual Homes obtained by their respective Owners may be written in the name of such Owners. Premiums for insurance obtained by the Board of Directors on individual buildings shall be included in the Annual Assessment as provided hereunder.

(b) The Board of Directors shall advise each Owner annually in writing of the amount and type of insurance coverage on his particular Home.

Section 9.02. Damage or Destruction of Improvements. If all or any part of the Condominium Property is damaged or destroyed, they shall be rebuilt or repaired as provided in Section 10.4 of the Declaration.

Section 9.03. Collection of Insurance. The Board of Directors of the Association shall collect all insurance proceeds payable with respect to any damaged building, and shall contract or make arrangements to rebuild or repair the damaged

such damage. All insurance payable on account of such casualty shall be deposited by the Association in a bank or financial institution, the accounts of which bank or institution are insured by a Federal governmental agency, with the proviso agreed to by the said bank or institution that such funds may be withdrawn only upon the signature of at least two members of the Board of Directors, or by their duly authorized agent.

Section 9.04. Restoration and Repair, Use of Insurance Proceeds. The Board of Directors may advertise for sealed bids with licensed contractors for such repair or restoration, and then may negotiate with any contractor who, unless the Board of Directors shall otherwise determine, shall be required to provide a full performance and payment bond for the repair, reconstruction or rebuilding of such destroyed building or buildings, and/or other improvements. If the insurance proceeds payable on account of such casualty are insufficient to pay all the costs of repairing and/or rebuilding the building or buildings to the same condition as formerly, the Board of Directors shall levy a special assessment against the Owners directly affected by the damage to make up any deficiency in the proportions provided in Section 9.11 below. If there is more than one building destroyed, the insurance proceeds payable to the Association shall be apportioned to the respective buildings on the basis of the relative money done to the several buildings that were damaged. If there is a dispute about the relative amount of damage to the buildings, the Association shall have an independent appraisal made to determine the relative amount of damage. If the insurance proceeds are adequate to pay for all the damage done, then apportionment to the several buildings shall not be necessary. Excess insurance proceeds, if any, shall become a part of the Association's general funds to be used as the Board of Directors may deem to be appropriate.

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CONSENT BY MORTGAGEE

The Indiana National Bank, Mortgagee  
of the Real Estate being submitted to the Horizontal Property Act  
hereby consents to such property being submitted to the Horizontal  
Property Regime, and it agrees that its lien on the Common Areas  
of the Horizontal Property Regime shall be released and said Mort-  
gagee shall look solely to its Mortgage Lien on each of the Homes  
in the Condominium together with their respective percentage in-  
terest in the Common Areas and Facilities thereof.

Dated this 19<sup>th</sup> day of November, 1973.

By Thomas J. Hall, V.P.

STATE OF INDIANA )  
                          )  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and  
State, personally appeared Thomas J. Hall  
who acknowledged the execution of the foregoing consent on behalf  
of The Indiana National Bank.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal  
this 19th day of November, 1973.

Virginia Houk  
Notary Public Virginia Houk

My Commission Expires:

March 15, 1975

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EXHIBIT D

TO ENABLING DECLARATION OF THE ARBORS CONDOMINIUM

Each apartment unit ("Home") in The Arbors Condominium shall have an undivided 2.78% interest in the Common Areas.

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APPROVED  
AND  
FILED

NOV 28 1973

*Larry A. Conrad*  
SECRETARY OF  
STATE OF INDIANA

Corporate Form No. 364-1 (Aug. 1971)  
Page One

**ARTICLES OF INCORPORATION**  
(Not for Profit)

Prescribed by Larry A. Conrad,  
Secretary of State of Indiana

**INSTRUCTIONS:**

Use 8 1/2 x 11 Inch Paper for Inserts

Present 2 Executed Copies to Secretary of  
State, Room 155, State House, Indianapolis,  
Indiana 46204

FILING FEE is \$13.00

General Requirements - "Non-Profit" means  
that the Corporation shall not engage in any  
activities for the pecuniary gain of its  
members.

**ARTICLES OF INCORPORATION  
OF**

**THE ARBORS ASSOCIATION, INC.**

The undersigned incorporator or incorporators, desiring to form a corporation (hereinafter referred to as the "Corporation") pursuant to the provisions of the Indiana Not-For-Profit Corporation Act of 1971, (hereinafter referred to as the "Act"), executed the following Articles of Incorporation.

**ARTICLE I**

**Name**

**THE ARBORS ASSOCIATION, INC.**

The name of the Corporation is .....  
(The name shall include the word "Corporation" or "Incorporated", or one of the abbreviations thereof.)

**ARTICLE II**

**Purposes**

The purposes for which the Corporation is formed are:

See next two pages.

Exhibit E

73 79689

12  
APPROVED  
AND  
FILED

NOV 28 1973

*L. J. ...*  
SECRETARY OF  
STATE OF INDIANA

Corporate Form No. 364-1 (Aug. 1971)  
Page One

ARTICLES OF INCORPORATION  
(Not for Profit)

Prescribed by Larry A. Conrad,  
Secretary of State of Indiana

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**Purposes**

The purposes for which the Corporation is formed are:

See next two pages.

Exhibit E

73 79689



ARTICLE II

PURPOSES

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 the maintenance, preservation and architectural control of the Homes and Common Area within that certain tract of property described as **The Arbors** Horizontal Property Regime and to promote the health, safety and welfare of the residents within the above-described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association for this purpose to:

(a) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Condominium of Horizontal Property Regime, hereinafter called the "Declaration", applicable to the property and recorded or to be recorded in the office of the Recorder of Marion County, Indiana, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length;

(b) fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

(c) acquire (by gift, 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;

(d) borrow money, pledge, deed in trust, or hypothecate any and all of its real or personal property as security for money borrowed or debts incurred;

(e) dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members.

(f) Participate in mergers and consolidations with other non-profit corporations organized for the

same purposes or annex additional residential property  
and Common Areas.

(g) have and to exercise any and all powers, rights  
and privileges which a corporation organized under  
the Not-For-Profit Corporation Law of the State of  
Indiana by law may now or hereafter have or exercise.

ARTICLE V

MEMBERSHIP

Every person or entity who is a record owner of a Home, as the same is defined in the Declaration, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Home which is subject to assessment by the Association.

The Association shall have one class of voting membership. Each member shall be entitled to cast one vote on each matter coming before the members.

Where more than one person owns an interest in any Home, all such persons shall be members. However, there shall be only one voting representative entitled to all the Percentage Vote allocable to a Home. The one voting representative entitled to cast the vote shall be determined in accordance with the provisions of the By-Laws of the Corporation.

**ARTICLE III**  
**Period of Existence**

The period during which the Corporation shall continue is **perpetual**  
(will either be "Perpetual", or, if to be limited, some definite period of time.)

**ARTICLE IV**  
**Resident Agent and Principal Office**

Section 1. Resident Agent. The name and address of the Resident Agent in charge of the Corporation's principal office is **Steven Falender**  
(Name)  
**2915 North High School Road, Indianapolis** **INDIANA** **46224**  
(Number and Street or Building) (City) (State) (Zip Code)

Section 2. Principal Office. The post office address of the principal office of the Corporation is  
**2915 North High School Road, Indianapolis** **INDIANA** **46224**  
(Number and Street or Building) (City) (State) (Zip Code)

**ARTICLE V**  
**Membership**

(A minimum of three (3) shall have signed the membership list. Directors or Trustees or Incorporators are included in the Membership.)

Section 1. Classes. (If any) The owners of each Home (collectively) in The Arbors Horizontal Property Regime in Marion County, Indiana, shall be members of the Corporation.

Section 2. Rights, Preferences, Limitations, and Restrictions of Classes.

See next page.

Section 3. Voting Rights of Classes.

See next page.

**73 79689**

*PLEASE NOTE: The Corporation shall confer upon every member a certificate signed by the President (or Vice-President) and Secretary (or Assistant Secretary), stating that he is a member of the Corporation.*



**ARTICLE VI**  
**Directors**

Section 1. Number of Directors. The initial Board of Directors is composed of **three (3)** members. If the exact number of Directors is not stated, the minimum number shall be **three (3)** and the maximum number shall be **nine (9)** . . . . . Provided, however, that the exact number of directors shall be prescribed from time to time in the By-Laws of the Corporation: **AND PROVIDED FURTHER THAT UNDER NO CIRCUMSTANCES SHALL THE MINIMUM NUMBER BE LESS THAN THREE (3).**

Section 2. Names and Post Office Addresses of the Directors. The name and post office addresses of the initial Board of Directors are:

Name	Number and Street or Building	City	State	Zip Code
Steven Falender	2915 North High School Road,	Indianapolis,	Indiana	46224
Sidney Z. Goldstein	2915 North High School Road,	Indianapolis,	Indiana	46224
John E. Kramer,	2915 North High School Road,	Indianapolis,	Indiana	46224

**ARTICLE VII**  
**Incorporator(s)**

Section 1. Names and Post Office Addresses. The names and post office address(es) of the incorporator(s) of the Corporation is (are) as follows:

Name	Number and Street or Building	City	State	Zip Code
Steven Falender	2915 North High School Road,	Indianapolis,	Indiana	46224
Sidney Z. Goldstein	2915 North High School Road,	Indianapolis,	Indiana	46224
John E. Kramer,	2915 North High School Road,	Indianapolis,	Indiana	46224

**ARTICLE VIII**  
**Statement of Property (If any)**

A statement of the property and an estimate of the value thereof, to be taken over by this corporation at or upon its incorporation are as follows: \$100.00 in cash, plus the management of the Common Areas of The Arbors Horizontal Property Regime.

**ARTICLE IX**  
**Provisions for Regulation and Conduct**  
**Of the Affairs of Corporation**  
**(Can be the "By Laws")**

Other provisions, consistent with the laws of this state, for the regulation and conduct of the affairs of this corporation, and creating, defining, limiting or regulating the powers of this corporation, of the directors or of the members or any class or classes of members are as follows:

See next two pages.

ARTICLE IX

PROVISIONS FOR REGULATIONS AND CONDUCT  
OF THE AFFAIRS OF THE CORPORATION

The affairs of the Corporation shall be managed by a Board of Directors. The initial Board as set forth in Article VI, Section 2, above, shall serve until the first annual meeting of the members which shall be held on the first Monday after April 15. At the first annual meeting of the members and each annual meeting subsequent thereto, the members shall elect a successor Board of Directors.

The Association may be dissolved with the Assent of not less than all of the members, or at any time the Condominium Property is removed from the Horizontal Property Act.

Amendment of these Articles shall require the assent of 67% of the members.

If the Corporation enters into contracts or transacts business with one or more of its Directors, or with any firm of which one or more of its Directors are members, or with any other corporation of which one or more of its Directors are stockholders, directors or officers, such contract or transaction shall not be invalidated or in any way affected by the fact that such Director or Directors have or may have interests therein which are or might be adverse to the interests of this Corporation, provided that the fact of such interest is disclosed or known to the Board of Directors and the Board of Directors shall nevertheless approve and ratify by a vote of a majority of the Directors present, such interested Director to be counted in determining whether a quorum is present and in calculating the majority of such quorum necessary to carry such vote. This section shall not be construed to invalidate any contract or other transaction which would otherwise be valid under the common and statutory law applicable thereto.

Meetings of the members and the Board of Directors shall be held at such place, within or without the State of Indiana, as may be provided or authorized by the provisions of the Corporation's By-Laws.

Any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, may be taken without a meeting, if prior to such action a written consent thereto is signed by all members of the Board, or of such committee, as the case may be, and

such written consent is filed with the minutes of the proceedings of the Board or committee.

The Corporation shall indemnify any person made a party to any action, suit or proceeding by reason of the fact that he, his testator or intestate is or was a Director, officer or employee of the Corporation, or of any Corporation which he served as such at the request of the Corporation against the reasonable expenses, including attorneys fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein except in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such officer, Director or employee is liable for negligence or misconduct in the performance of his duties. The Corporation may also reimburse to any such Director, officer or employee the reasonable costs of settlement of any such action, suit or proceeding if it shall be found by a majority of a committee composed of the Directors not involved in the matter in controversy (whether or not a quorum) that it was to the interests of the Corporation that such settlement be made and that such Director, officer or employee was not guilty of negligence or misconduct. Such rights of indemnification and reimbursement shall not be deemed exclusive of any other rights to which such Director, officer or employee may be entitled apart from the provisions of this Article.

The undersigned, being one or more persons, do hereby adopt these Articles of Incorporation, representing beforehand to the Secretary of State of the State of Indiana and all persons whom it may concern that a membership list or lists of the above named corporation for which a Certificate of Incorporation is hereby applied for, have heretofore been opened in accordance with the law and that at least three (3) persons have signed such membership list.

IN WITNESS WHEREOF, I (we) the undersigned do hereby execute these Articles of Incorporation and certify the truth of the facts herein stated, this 5th day of October, 1973.

*John E. Kramer*  
(Written Signature)  
John E. Kramer  
(Printed Signature)

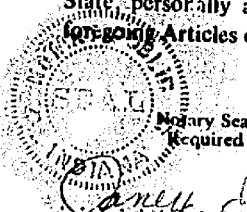
*Steven Palender*  
(Written Signature)  
Steven Palender  
(Printed Signature)

*Sidney Z. Goldstein*  
(Written Signature)  
Sidney Z. Goldstein  
(Printed Signature)

NOTARY ACKNOWLEDGEMENT  
(required)

State of Indiana  
County of MARION SS:

Before me, Janey E. Castle Mitten, a Notary Public in and for said county and State, personally appeared the above incorporator(s) and (severally) acknowledged the execution of the foregoing Articles of Incorporation.



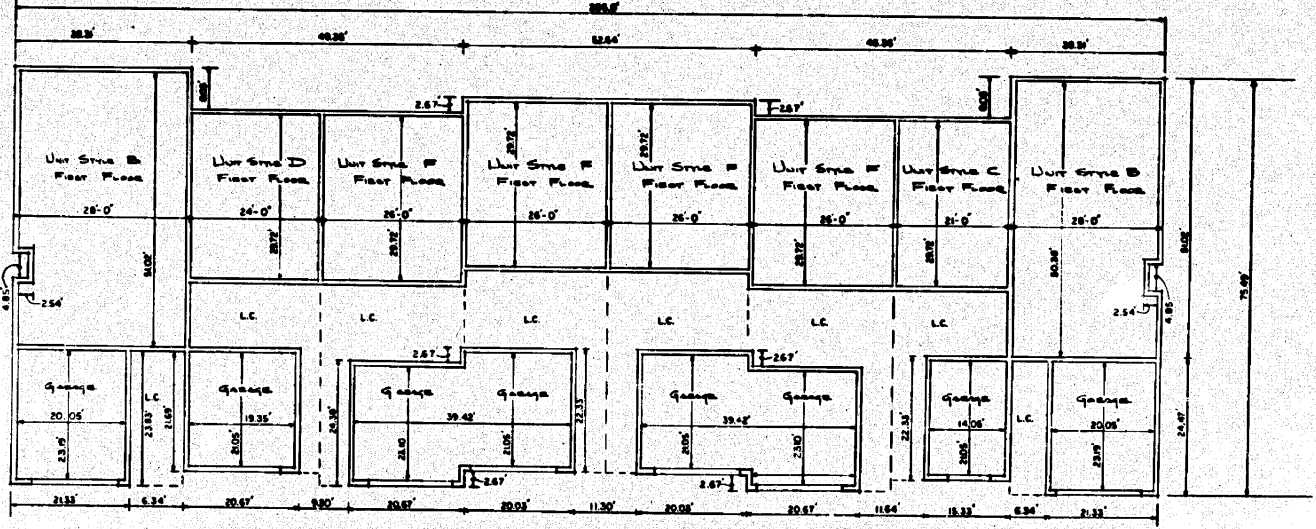
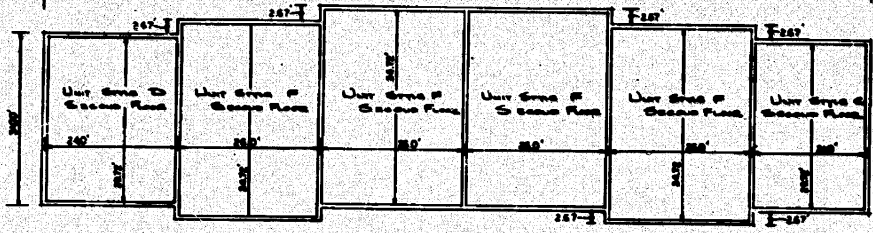
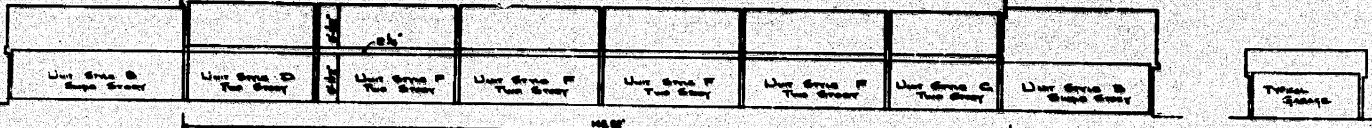
*Janey E. Castle Mitten*  
(Written Signature)  
Janey E. Castle Mitten, Notary Public  
(Printed Signature)

My commission expires: May 13, 1974

WITNESS my hand and Notarial Seal this 5th day of October, 1973.

This instrument was prepared by Walter E. Wolf, Jr. (Name)  
KLINEMAN, ROSE and WOLF  
2130 Indiana National Bank Tower, Indianapolis, Indiana 46204  
(Number and Street or Building) 73 79689 (City) (State) (Zip Code)

73 7900



L.C. = LIMITED COMMON AREA

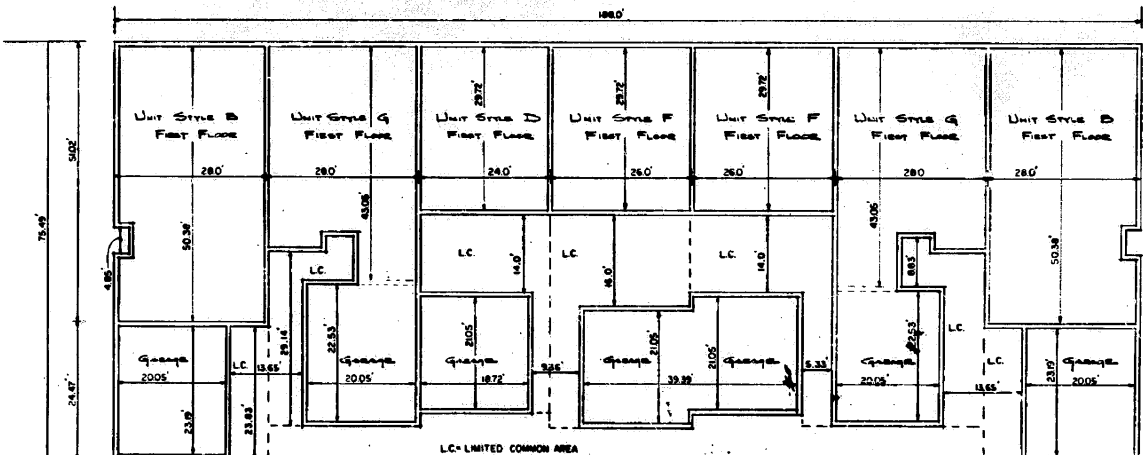
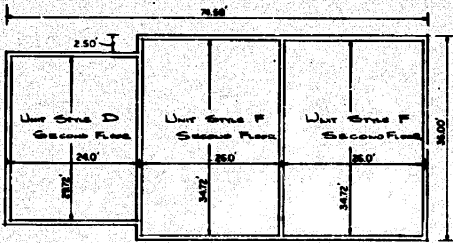
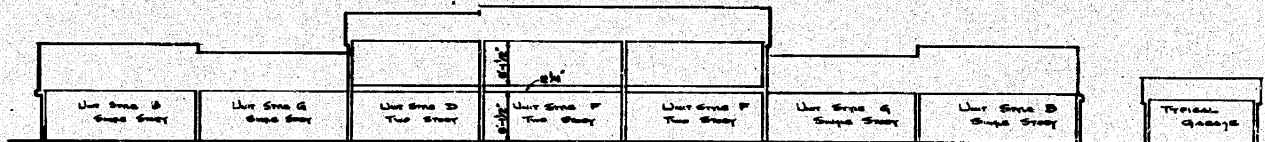
73 7900

BUILDING NO. 2

EXHIBIT "C" PAGE 3  
 PROJECT: 73 7900, BUILDING NO. 2  
 PREPARED BY: [Signature]  
 DATE: [Date]



73 79689



73 79689

BUILDING No: 11

EXHIBIT "C" PAGE 1

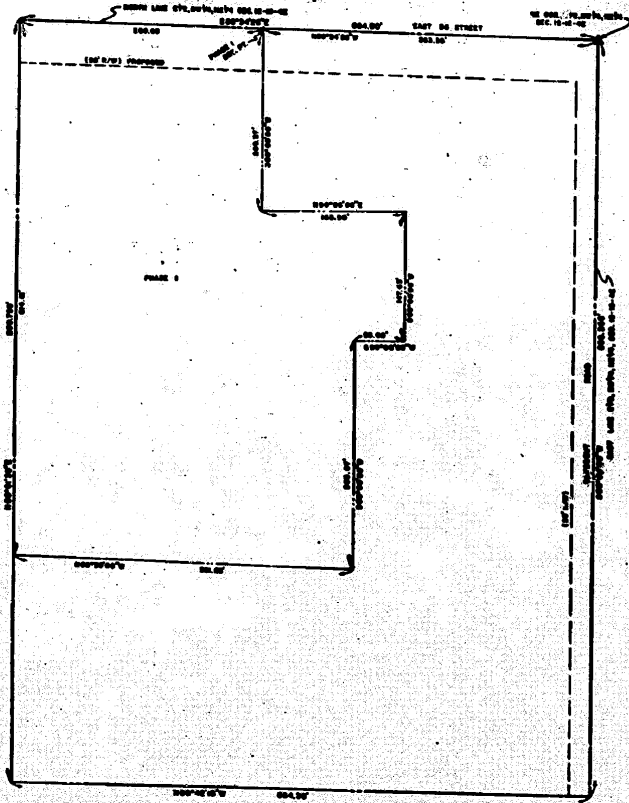
FOR THE ABOVE DEVELOPER: **PHASE 1**  
 PREPARED BY: **WALKER HENRI, INC.**  
 TITLE: **FLOOR PLAN & ELEVATION**

DATE: 11/11/11  
 SHEET NO: 11 OF 11

*John D. Walker*  
 PROJECT MANAGER

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMIT	11/11/11
2	ISSUED FOR PERMIT	11/11/11
3	ISSUED FOR PERMIT	11/11/11
4	ISSUED FOR PERMIT	11/11/11
5	ISSUED FOR PERMIT	11/11/11
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7	ISSUED FOR PERMIT	11/11/11
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9	ISSUED FOR PERMIT	11/11/11
10	ISSUED FOR PERMIT	11/11/11
11	ISSUED FOR PERMIT	11/11/11
12	ISSUED FOR PERMIT	11/11/11
13	ISSUED FOR PERMIT	11/11/11
14	ISSUED FOR PERMIT	11/11/11
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16	ISSUED FOR PERMIT	11/11/11
17	ISSUED FOR PERMIT	11/11/11
18	ISSUED FOR PERMIT	11/11/11
19	ISSUED FOR PERMIT	11/11/11
20	ISSUED FOR PERMIT	11/11/11





CERTIFICATE OF CORRECT

I hereby certify that this is a true and correct copy of a survey made by me on the 10th day of December, 1978, as the following description reads to-wit:

East of the East Half of the Northwest Quarter of the Northwest Quarter of Section 12, Township 14 North, Range 4 East in the County of Lincoln, Nebraska, as the same is particularly described as follows, to-wit:

Beginning at the Northwest corner of the East Half of the Northwest Quarter of the Northwest Quarter of said Section; thence South 89 degrees 00 minutes 00 seconds East along the East line of the East Half of the Northwest Quarter of the Northwest Quarter of said Section 100.00 feet; thence South 89 degrees 00 minutes 00 seconds East 100.00 feet; thence South 89 degrees 00 minutes 00 seconds East 100.00 feet to the North line of the East Half of the Northwest Quarter of said Section; thence South 89 degrees 00 minutes 00 seconds East along the North line of the East Half of the Northwest Quarter of the Northwest Quarter of said Section 100.00 feet to the Point of Beginning, containing 18.87 acres, more or less.

Subject, however, to the right of way for East 26th Street off the entire North side thereof.

I further certify that there are not any encumbrances and that except as above, there are no visible claims or rights of any kind and I am not aware of any other encumbrances or rights of any kind which the above-mentioned land has been subject to and all encumbrances, if any, are hereby released.

LEGAL DESCRIPTION

A part of the East Half of the Northwest Quarter of the Northwest Quarter of Section 12, Township 14 North, Range 4 East in the County of Lincoln, Nebraska, as the same is particularly described as follows, to-wit:

Beginning at a point on the North line of the East Half of the Northwest Quarter of Section 12, Township 14 North, Range 4 East in the County of Lincoln, Nebraska, 100.00 feet from the Northwest corner of the East Half of the Northwest Quarter of said Section; thence South 89 degrees 00 minutes 00 seconds East along the East line of the East Half of the Northwest Quarter of the Northwest Quarter of said Section 100.00 feet; thence South 89 degrees 00 minutes 00 seconds East 100.00 feet; thence South 89 degrees 00 minutes 00 seconds East 100.00 feet to the North line of the East Half of the Northwest Quarter of said Section; thence South 89 degrees 00 minutes 00 seconds East along the North line of the East Half of the Northwest Quarter of the Northwest Quarter of said Section 100.00 feet to the Point of Beginning, containing 18.87 acres, more or less.

Subject, however, to the right of way for East 26th Street off the entire North side thereof.

APPROVED THIS 21<sup>st</sup> DAY OF DECEMBER 1978  
 JUDGE OF LINCOLN COUNTY  
 DRAFTSMAN

PLAT NUMBER  
 25205  
 COUNTY ABSTRACT  
 25205

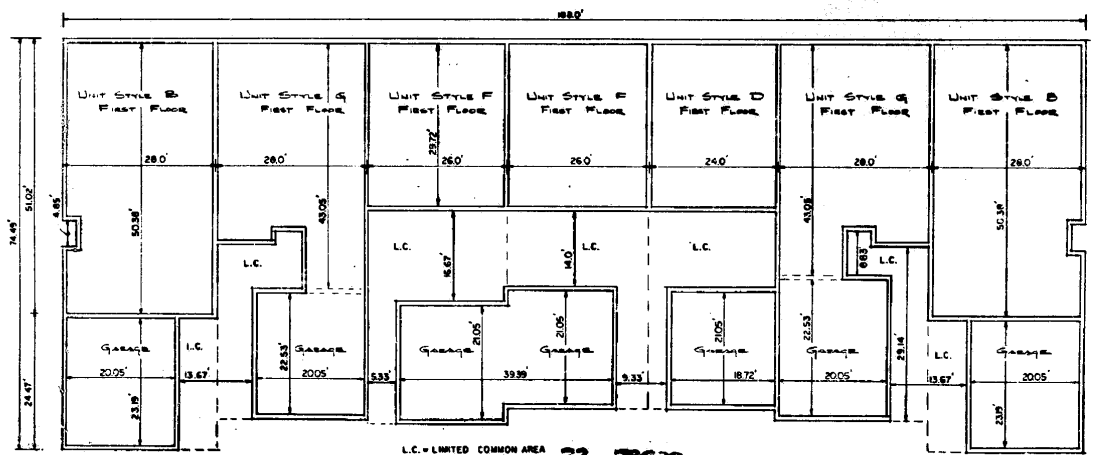
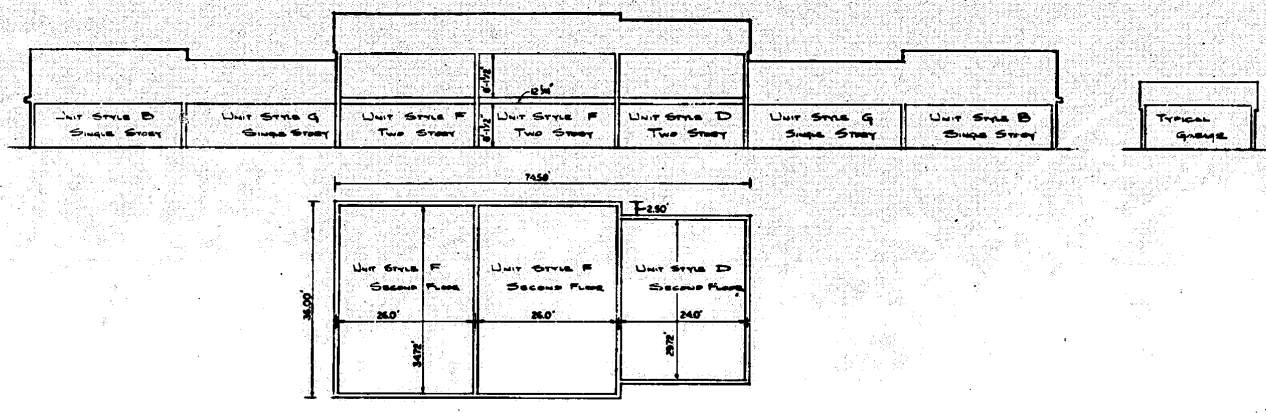


PLAT NUMBER: 25205  
 COUNTY ABSTRACT: 25205  
 DATE OF RECORDING: 12/21/78  
 COUNTY OF RECORDING: LINCOLN  
 TOWNSHIP: 14 NORTH  
 RANGE: 4 EAST  
 SECTION: 12  
 PLAT AREA: 18.87 ACRES  
 DRAFTSMAN: [Signature]  
 APPROVED: [Signature]



10

73 75039

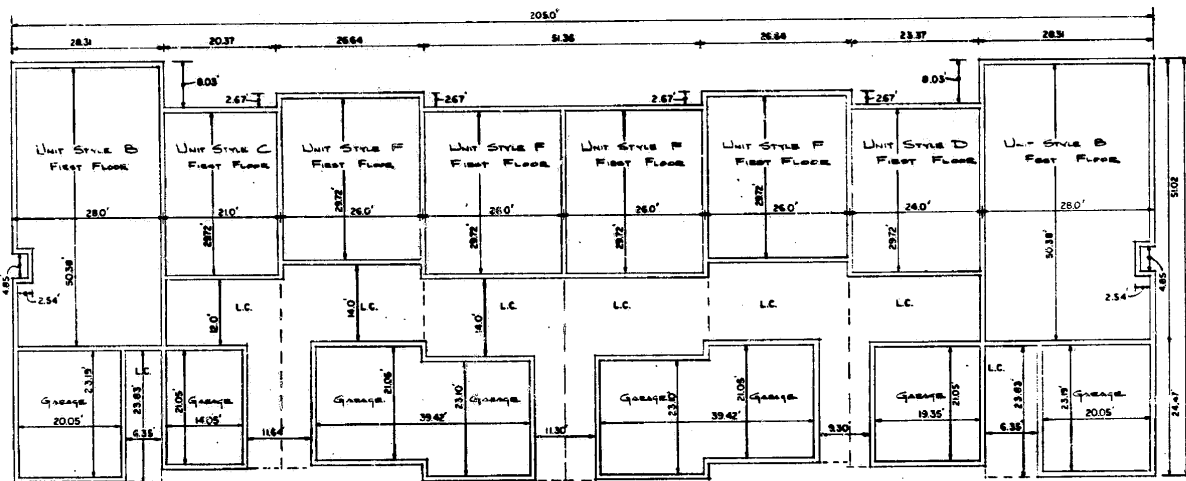
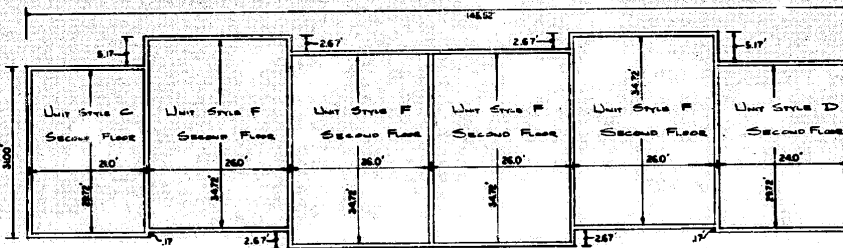
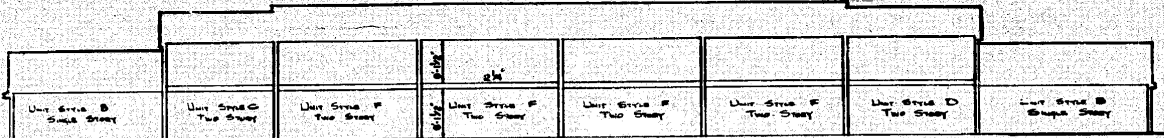


L.C. = LIMITED COMMON AREA 73 75039

BUILDING No. 12

EXHIBIT "C" PAGE 5  
 PROJECT: 73 75039 - PHASE 1  
 PREPARED BY: FALLONER DESIGN, INC.  
 DATE: 11/11/10  
 SCALE: AS SHOWN  
 DRAWN BY: J. J. J.  
 CHECKED BY: J. J. J.  
 APPROVED BY: J. J. J.  
 PROJECT NO.: 73 75039  
 SHEET NO.: 12 OF 12  
 FLOOR PLAN & ELEVATION

73 73689



L.C. - LIMITED COMMON AREA 73 73689

BUILDING No. 10

EXHIBIT 'C' PAGE 4

PROJECT: THE AMBER COMMONS - PHASE 10  
 PREPARED BY: PALMER SMITH, INC.  
 DATE: 10/15/12  
 DRAWING NO.: 10-10-001

SCALE: AS SHOWN  
 1" = 10'-0"