

BY-LAWS
OF
MARKET SQUARE TOWER CONDOMINIUM ASSOCIATION
An Unincorporated Association

ARTICLE I

IDENTITY

These are the By-Laws of Market Square Tower Condominium Association, an unincorporated condominium association. For purposes of these By-Laws, terms specifically defined in the Declaration of Market Square Tower Condominiums (the "Declaration"), or in the North Carolina Condominium Act (N.C.G.S. Section 47C-1-101, et seq.) shall have the same meaning herein.

ARTICLE II

QUALIFICATIONS AND RESPONSIBILITIES OF MEMBERS

2.1 Members.

Each Unit Owner shall be a member of the Association, and shall remain a member until he ceases to be a Unit Owner.

2.2 More Than One Owner.

When a Unit Owner is other than a single individual person (including husband and wife, other joint tenants, a partnership or a corporation) all of the owners, if individuals, all general partners, if a general partnership or limited partnership, the corporate president, if a corporation or the person authorized to act for the entity, if other than the above, shall designate in writing with the secretary of the Association the individual entitled to vote before the Association, or otherwise act in any manner concerning the Unit. A statement notarized and executed by all parties required to execute it shall be provided to the Association. Failure of the Unit Owner to properly designate a voting member shall be deemed approval for any one having an ownership interest in the Unit to vote if in attendance at a meeting; if more than one of the Unit Owners attends the meeting, and there is any disagreement between the members as to the one allowed to vote, said Unit shall not be entitled to vote.

2.3 Registration.

All of the original purchasers of Units from Declarant shall be registered with the Association by Declarant at time of closing. It shall be the duty of each subsequent Unit Owner to register the name and number of his Unit with the Secretary of the Association. If Unit Owners do not so register, the Association shall be under no obligation to recognize his membership.

2.4 Prohibition of Assignment.

The interest of a member in the Association assets cannot be transferred or encumbered except as an appurtenance to his Unit.

ARTICLE III

MEMBERS, MEETINGS AND VOTING

3.1 Place.

Meetings of the members shall be held at the Condominium, or such other place as may be designated from time to time by the Board.

3.2 Annual Meetings.

The annual members' meeting shall be on the second Saturday of December as specified in the notice of such meeting given pursuant to Section 3.4. At each annual meeting, the members shall elect members of the Board (directors) and may transact any other business properly coming before them.

3.3 Special Meetings.

Special meetings of the members may be called at any time by the President or by the Board, and shall be called and held within thirty (30) days after written request therefor signed by members of the Association entitled to cast at least twenty percent (20%) of the total votes of the Association is delivered to any officer or director of the Association. No business shall be transacted at a special meeting except that which is stated in the notice thereof.

3.4 Notices.

Notices of all meetings of the members, stating the time and place, and accompanied by a complete agenda thereof, shall be given by the President or Secretary to each member. Such notice shall be in writing and shall be hand-delivered or sent by United States Mail to the members at the addresses of their respective Units or to other addresses as any member may have designated to the President or Secretary, at least thirty (30) days in advance of any annual or regularly scheduled meeting, and at least thirty (30) days in advance of any other meeting.

3.5 Quorum; Adjournment If No Quorum.

A quorum shall consist of members present, in person, or by proxy, entitled to cast at least fifty-one percent (51%) of the total votes of the Association. If a quorum is not present, the meeting shall be adjourned from time to time until a quorum is present.

3.6 Votes; Association Shall Not Vote.

The total votes in the Association are allocated to Units by the Declaration. The votes allocated to a Unit may be cast by the Owner of that Unit. If there is more than one Unit Owner of a Unit, the votes for that Unit shall be cast in accordance with the procedures set out in Paragraph 2.2 of these By-Laws. The votes allocated to a Unit shall not be split but shall be voted as a single whole.

3.7 Manner of Casting Votes.

Votes may be cast in person or by proxy. A proxy must be in writing, and must be signed by the Unit Owner or Owners of the Unit submitting the proxy. All proxies must be

filed with the Secretary of the Association before or at the time of roll call of the meeting. The proxy shall be valid until revoked in writing by the signatory party or parties. If proxies are submitted by more than one member, which members are Owners of a single Unit, all such proxies shall be invalid, if contradictory.

3.8 Required Votes.

All questions shall be decided by a majority of the votes cast on the question, unless the provisions of applicable law, the Declaration, or these By-Laws require a greater vote.

3.9 Action by Members Without Meeting.

Any action that may be taken at a meeting of the members, may be taken without a meeting if such action is authorized in a writing setting forth the action taken, and is signed by all members, or if such action is taken in any other manner permitted by law.

3.10 Cumulative Voting.

Cumulative voting shall not be allowed.

ARTICLE IV

DIRECTORS

4.1 First Board.

The first Board shall consist of three (3) persons selected by the Declarant. Not later than sixty (60) days after conveyance of 25% of the Units (excluding Units on the Option Property submitted by amendment to the Declaration) to Unit Owners other than Declarant, the members shall select one (1) member of the Board to replace one (1) originally named by the Declarant. At the end of the Declarant Control Period as defined in the Declaration of Condominium, all members of the Board shall be selected by vote of the members of the Association.

4.2 Number and Qualification of Directors.

The Board shall consist of not less than three (3) nor more than five (5) natural persons, which number shall be selected by the Board. It shall be conclusively presumed that the Board shall consist of three (3) natural persons unless an increase in the number is specifically approved by the Board, or unless an increase in number is required by a provision of the Declaration or these By-Laws. Each director shall be a Unit Owner, except for directors selected by Declarant, which directors selected by the Declarant may or may not be Unit Owners. Notwithstanding this provision, upon expansion of the Condominium into the Option Property, the provisions of Article XIII shall be applicable, notwithstanding any conflict between the provisions of Article XIII and this Article IV.

4.3 Election of Directors.

Directors shall be selected by the members by a majority vote of those attending in person or by proxy and entitled to vote at the annual meeting of the membership of the Association, except for those directors selected by the Declarant in accordance with this Article IV.

4.4 Term.

X

The terms of the directors shall be three (3) years, but the directors shall serve until new directors are elected at the annual meeting. At the first annual meeting following the end of the Declarant Control Period, and notwithstanding any other provision of these By-Laws, all directorships shall be deemed vacant. As selected at that meeting only, and in order to create staggered terms on the Board within each category of allowed use for which more than one director is selected, only one director for each assigned use category shall be selected for a three (3) year term; if a second director is selected for such category of use, said director shall be selected for a two (2) year term; if a third director is elected for a particular category of use (or more than three), all such directors shall be selected for one year terms. The director with the most votes within each category shall be selected for the three (3) year term, with the director receiving the second highest number of votes selected for a two (2) year term, and such priority shall be continued so that the director receiving the third highest number of votes shall be selected for a one (1) year term, as shall all other elected directors within each use category. Should directors receive equal numbers of votes, the terms shall be selected by lot.

4.5 Removal.

X

Any director selected by the members may be removed with or without cause, by a vote of the members entitled to cast fifty-one percent (51%) of the total votes entitled to be cast by all Association members (whether attending or not), at a special meeting called for such purpose, and a successor may then be elected in accordance with the procedures set out in Section 3 of this Article for the balance of the removed director's term.

4.6 Vacancies.

Any vacancy on the Board arising by death or resignation of a director shall be filled by act of the remaining directors, whether or not constituting a quorum, and a director so elected shall serve for the unexpired term of his predecessor in office.

4.7 Regular Meetings.

X

Regular meetings of the Board may be held at such time and place as shall be determined by a majority of the directors. Notice of regular meeting shall be given to each director, personally or by mail, telephone, or telegraph, at least thirty (30) days prior to the meeting. The Board shall meet no less frequently than quarterly.

4.8 Special Meetings.

Special meetings of the Board may be called by the President and shall be called by the President or the Secretary and held within twenty (20) days after written request therefor signed by two directors delivered to the other directors and the President or the Secretary. Not less than fifteen (15) days notice of such special meeting shall be given personally or by mail, telephone, or telegraph, to each director; provided that in case the President or any director determines that an emergency exists, a special meeting may be called by giving such notice as is possible under the circum-

stances. All notices of a special meeting shall state the time, place and purpose thereof. No business shall be transacted at a special meeting except that which is stated in the notice thereof.

4.9 Quorum; Adjournment If No Quorum.

A quorum of directors shall consist of the majority of the total number of directors (excluding any vacancies in the Board of Directors not yet filled). If a quorum is not present, the meeting shall be adjourned from time to time until a quorum is present. The signing by a director of the minutes of a meeting shall constitute the presence of such director at that meeting for the purpose of determining a quorum.

4.10 Manner of Acting.

Each director shall be entitled to one vote. Majority vote of the directors voting shall constitute the act of the Board.

4.11 Board Action Without Meeting.

Any action that may be taken at a meeting of the Board may be taken without a meeting if such action is authorized in a writing setting forth the action taken and signed by all directors.

4.12 Compensation of Directors Restricted.

Directors shall receive no compensation for their services.

4.13 Powers and Duties of the Board.

All of the powers and duties of the Association shall be exercised by the Board, including those existing under the common law, applicable statutes, the Act, the Declaration, and these By-Laws, as any thereof may from time to time be amended. Such powers and duties shall be exercised in accordance with the provisions of applicable law, the Declaration, the Articles, and these By-Laws, and shall include, but not be limited to, the following:

(a) to prepare and provide to members annually, a report containing at least the following:

(i) a statement of any capital expenditures in excess of two percent (2%) of the current budget, or \$2,500.00, whichever is lesser, anticipated by the Association during the current fiscal year or succeeding two fiscal years.

(ii) a statement of the status and amount of any reserve or replacement fund and any portion of the fund designated for any specified project by the Board.

(iii) a statement of the financial condition of the Association for the last fiscal year period.

(iv) a statement of the status of any pending suits or judgments in which the Association is a party.

(v) a statement of the insurance company provided by the Association.

(vi) a statement of any unpaid assessments payable to the Association, identifying the Unit and the amount of the unpaid assessment.

(b) to adopt and amend budgets and to determine and collect assessments to pay the Common Expenses.

(c) to regulate the use of, and to maintain, repair, replace, modify and improve the Common Elements.

(d) to adopt and amend rules and regulations and to establish reasonable penalties for infractions thereof, which penalties shall not exceed \$100.00 per infraction.

(e) to enforce the provisions of the Declaration, these By-Laws, the Act, and rules and regulations, by all legal means, including injunction and recovery of monetary penalties.

(f) to hire and terminate managing agents and to delegate to such agents such powers and duties as the Board shall determine, except such as are specifically required by the Declaration, the Articles, these By-laws, or the Act, to be done by the Board or the members.

(g) to hire and terminate agents and independent contractors.

(h) to institute, defend, intervene in, or settle any litigation or administrative proceedings in its own name on behalf of itself or the Unit Owners on matters affecting the Condominium or the Common Elements.

(i) to establish and dissolve and liquidate, from time to time, reserve accounts for any purpose.

(j) to borrow money for the maintenance, repair, replacement, modification or improvement of Common Elements, and to pledge and pay assessments, and any and all other revenues and income for such purpose.

(k) to impose and receive payments, fees, and charges for the use, rental or operation of the Common Elements, other than the Limited Common Elements.

(l) to grant leases, licenses, concessions and easements through and over the Common Elements.

(m) to impose and collect reasonable charges, including reasonable costs and attorney's fees, for the evaluation, preparation and recordation of amendments to the Declaration, resale certificates required by the Act, or certificates of unpaid assessments.

(n) to provide for indemnification of the Association's officers and directors and maintain officers and directors liability insurance.

(o) to impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, these By-Laws, or the rules and regulations. The fine shall be either in the amount of Twenty-Five Dollars (\$25.00) or Fifty Dollars (\$50.00), as determined by the Board, for each violation, depending upon whether the Board determines the violation to be minor or major.

(p) to seek competitive bids for the provision of services to the Association, including, but not limited to, repairs to Common Elements and maintenance and upkeep of Common Elements, in all instances in which the total cumulative cost of the repair or maintenance over the life of the contract is \$1,000.00 or more, where the repair or maintenance is of a non-emergency nature and where the Board of Directors can at a reasonable cost and in a reasonable time prepare accurate specifications to insure that bids procured are based upon comparable services and assumptions.

ARTICLE V

OFFICERS

5.1 Designation of Officers.

The officers of this Association shall be a President and a Secretary/Treasurer. Each officer shall be a Unit Owner or the individual nominee of a Unit Owner which is other than an individual, except that officers selected by the Board during the Declarant Control Period need not be Unit Owners.

5.2 Election of Officers.

X
The officers of the Association shall be elected by the Board. The election shall be held annually at the first meeting of the Board held after the annual meeting of members, except that the first Board shall elect officers as soon as practicable after filing of the Declaration.

5.3 Term.

K
Each officer shall serve until his successor has been duly elected and has qualified.

5.4 Removal.

Any officer may be removed, with or without cause, and without notice, by the Board.

5.5 Vacancy.

Any vacancy in any office shall be filled by the Board, and an officer elected to fill a vacancy shall serve for the unexpired term of his predecessor in office.

5.6 Powers and Duties of Officers.

(a) President.

The President shall be the chief executive officer of the Association; shall have all of the powers and duties incident to the office of a president of a corporation, including, but not limited to, the duty to preside at all meetings of the Board and of the members, and the general supervision of officers in the management of the business and affairs of the Association; and shall see that all actions and resolutions of the Board are carried into effect.

(b) Secretary/Treasurer.

The Secretary/Treasurer shall keep the minutes of all meetings and actions of the Board and of the members; shall give all required notices to the directors and members;

shall keep the records of the Association; shall have custody of all intangible property of the Association, including funds, securities, and evidences of indebtedness; shall keep the books of the Association in accordance with good accounting practices and principles and, upon request, shall submit them, together with all vouchers, receipts, records, and other papers to the Board for examination and approval; shall deposit all monies and other valuable effects in depositories designated by the Board; shall disburse funds of the Association as directed by the Board; and shall perform all other duties incident to the office of Secretary/Treasurer of a corporation.

5.7 Execution of Agreements.

All agreements, deeds, mortgages, or other instruments shall be executed by the appropriate officers of the Association. Any legal instrument, including a deed, easement or mortgage shall be sufficiently executed if executed by the Association President or Vice-President, with attestation made by the Association Secretary or Assistant Secretary, and such agreement shall be binding upon the Association and all of its members.

5.8 Compensation of Officers Restricted.

No officer shall be compensated for his services in such capacity.

5.9 Other Officers.

The Board may, at its option, elect a Vice-President or Assistant Secretary-Treasurer to perform functions and assume responsibilities as designated by the Board.

ARTICLE VI

INDEMNIFICATION OF DIRECTORS AND OFFICERS.

The Association shall indemnify and save the officers and members of the Board of Directors harmless from and against all claims, demands and suits, and expenses incurred in defending the same, relating to actions they took or did not take in their terms of office, except in the event of fraud, gross negligence or intentional wrongdoing. This indemnification shall specifically include, but not be limited to, attorney's fees and expenses incurred in regard to any such claim.

ARTICLE VII

FISCAL MANAGEMENT

7.1 Depository.

The Board shall designate a depository for the funds of the Association, and may change such depository from time to time. Withdrawal of funds from such depository shall be only by checks signed by two officers of the Association, or by one officer and another designee of the Board (which may or may not be a manager hired by the Board).

7.2 Fidelity Bonds.

Fidelity bonds may be maintained by the Association in an amount determined by the Board.

7.3 Annual Audit.

X
The officers of the Association shall prepare an annual statement of income and disbursements which shall be distributed to the members of the Association. At the request of three or more Unit Owners, an audit of the accounts of the Association shall be made by a certified public accountant.

7.4 Fiscal Year.

The fiscal year of the Association shall be the calendar year, provided that the Board, from time to time, by resolution may change the fiscal year to some other designated period.

ARTICLE VIII

ASSESSMENTS.

8.1 Obligation of Members to Pay Assessments:
Amount of Levy.

Until the Association levies a Common Expense assessment, Declarant shall pay all accrued expenses of the Condominium. Thereafter, each Unit Owner shall be personally and severally liable for the Common Expenses that are levied against his Unit while a Unit Owner. Each Unit shall be assessed in accordance with the provisions of the Declaration.

8.2 Preparation of Budget and Levying of Assessment.

X
For each fiscal year, beginning with the fiscal year beginning January 1, 1990, the Board shall prepare and adopt a budget, including therein estimates of the amount necessary to pay the Common Expenses, together with amounts considered necessary by the Board for reserves. After preparation and adoption of each such budget, the Board shall provide each member with a copy, and shall give each member notice of the assessment made against that member's Unit based upon such budget and may also state the interest to be charged on delinquent payments therefor. The assessments shall be deemed levied upon the giving of such notice. Provided, however, that the first budget after creation of the Condominium shall be prepared and adopted by the Board only for the balance of the then fiscal year of the Association commencing upon conveyance of the first Unit to a third party, and notice of the amount of the assessment against each Unit for such balance of the fiscal year shall be given by the Board to each member as soon as practicable after adoption. Such assessment shall be deemed levied upon notice thereof given by the Board. A budget shall be adopted only upon compliance with the procedural requirements of the Act.

8.3 Assessment Lien.

Every assessment shall constitute a lien upon such Unit assessed from the date the assessment is levied, prior to all other liens except only (i) real estate taxes and other governmental assessments or charges against that Unit; and (ii) liens and encumbrances recorded before the recordation of the Declaration, and (iii) other liens and encumbrances given priority by the Declaration.

8.4 Payment of Assessments.

Assessments shall be payable when notice thereof is given, but shall not be delinquent if paid at the times and in the amounts specified by the Board in the notice of assessment. Payment shall be made to the Association monthly.

8.5 Funds and Reserves.

All sums collected by the Association from assessments shall be accounted for as follows:

(a) Reserve Funds for Repairs and Replacements. To this fund shall be credited all sums, if any, collected for the purpose of effecting repairs and replacements of structural elements and mechanical equipment, and other Common Elements of the Condominiums.

(b) General Operating and Reserve Fund. To this fund shall be credited all sums, if any, collected to provide a reserve for purposes of providing a measure of financial stability during period of special stress, and may be used to meet deficiencies from time to time as a result of delinquent payments and assessments and other contingencies.

Received
(c) Maintenance Fund. To this fund shall be credited collections of assessments for all Common Elements for the current year as well as common profits and surplus from the previous year, and not to be credited to either of the above reserve funds.

(d) Working Capital Fund. All funds, if any, received by the Association for the initial working capital fund of the Association, to defray unforeseen expenses and/or the cost of additional equipment or services deemed necessary or desirable by the Board, shall be maintained and segregated in this fund for the use and benefit of the Association.

8.7 Special Assessments.

In addition to the assessments levied pursuant to Section 8.2, the Board, in its discretion, may levy special assessments at such other and additional times as in its judgment are required for:

(a) maintenance, repair, restoration and reconstruction of the Common Elements, and operation of the Condominium.

(b) alterations, improvements, and additions to the Common Elements; provided, however, that any such special assessment involving an expenditure in excess of \$1,000.00 shall be first approved by members entitled to cast 51% of the total votes in the Association at a regular or special meeting of the Association.

(c) payment of costs and expenses incurred in curing defaults pursuant to Sections 10.1 and 10.3 hereof.

Special assessments made pursuant to this section shall be a Common Expense, shall be deemed levied upon notice thereof being given to the member subject to such special assessment, and shall be payable as determined by the Board and as set out in such notice.

8.8 Common Expenses Associated With Limited Common Elements or Benefiting Less Than All Units.

(a) Any Common Expense associated with the maintenance, repair, or replacement of a Limited Common Element shall be assessed against the Unit, or as a Common Expense to the Units to which the use of such Limited Common Element was allocated at the time the expense was incurred.

(b) In addition, the Association may assess any item of Common Expense benefiting less than all of the Units against the Units benefited in proportion to their Common Expense liability.

8.9 Failure to Prepare Budget and to Levy Annual Assessment; Deficiencies in Procedure.

The failure of the Board or delay of the Board in preparing any budget, and to levy or in levying assessments, shall not constitute a waiver or release of the members' obligation to pay assessments whenever the same shall be determined and levied by the Board. Until a new assessment is levied by the Board pursuant to Section 8.2, each member shall continue to pay the assessment then previously levied pursuant to Section 8.2 in the same amount and at the same periodic times as levied, or as the Board may otherwise advise in writing. Also, any deficiencies or inadequacies in the procedure followed by the Board in levying an assessment shall not in any way affect its validity or the obligation of members to pay such assessment.

8.10 Assessment Roll; Certificate.

All assessments shall be set forth upon a roll of the Units, which shall be available in the office of the Association for inspection at all reasonable times by members and Security Holders, and their duly authorized representatives. Such rolls shall include, for each Unit, the names and addresses of the member or members, all assessments levied, and the amount of all assessments unpaid. The Association, upon written request, shall furnish to a Unit Owner, or his authorized agent, a recordable certificate setting forth the amount of unpaid assessments currently levied against his Unit. The certificate shall be furnished within seven (7) business days after receipt of the request and shall be binding upon the Association and all Unit Owners. For such certificate a reasonable fee may be charged by the Board.

8.11 Default and Enforcement.

If any assessment, or installment thereof, levied against a Unit remains unpaid for a period of thirty (30) days or longer, it shall constitute a lien against that Unit when filed of record in the office of the Clerk of Superior Court of Guilford County in the manner provided therefor by Article 8 of Chapter 44 of the General Statutes of North Carolina. The Association's lien may be foreclosed in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes of North Carolina. Fees, charges, late charges, fines and interest charged pursuant to the Act are enforceable as assessments. Unless otherwise determined by the Board, interest on unpaid liens shall accrue at the rate of 18% per annum.

In addition to the foregoing, and without waiving its lien, the Association may sue to obtain a money judgment for the amount of any delinquent assessment or installment thereof, together with interest, and the member so sued and

liable for such assessment shall pay all costs of collection, at the same rate as charged on the assessments being collected from the dates incurred until paid, said costs to include all attorney's fees incurred in collection of the same.

8.12 Interest on Delinquent Assessments.

Assessments, or installments thereof, paid before they become delinquent shall not bear interest, but all delinquent sums shall bear interest at the rate set forth in the notice levying the assessment, not exceeding the rate of interest allowed by the Act, from the date delinquent until paid. If no interest rate is set forth in such notice, such interest rate shall be the maximum allowed by the Act. All payments upon account shall be applied first to interest and then to the assessment, or installment thereof, longest delinquent. All such interest shall have the same priority as the assessment on which such interest accrues.

8.13 Common Expenses.

Common Expenses shall mean and include all sums declared Common Expenses by the Act, or by any specific provisions of these By-Laws or the Declaration, and shall include, without limitation, the following: real estate taxes and other governmental assessments or charges against the Property until the Units are separately assessed; premiums for any and all insurance maintained by the Association, including any deductible or co-insurance amount not covered by insurance; utility charges not charged directly to Unit Owners; legal and accounting fees; costs and expenses incurred in connection with any litigation or administrative proceeding pursuant to Section 4.13(h) hereof; deficits remaining from any prior assessment period; the cost, including fees and interest incurred in connection with any borrowing done by the Association; costs of all fidelity bonds; costs imposed upon the Association or any part of the Common Elements or the Property by, or incurred by the Association as a result of the performance, enforcement or amendment of any agreement or easement to which the Association is a party, or to which the Common Elements or Property or any part of either thereof is or may be subject; amounts determined necessary for reserve funds; and indemnity payments made by the Association pursuant to Article VI hereof.

ARTICLE IX

RELOCATION AND ALTERATION OF UNITS.

9.1 Procedure.

If any Unit Owner desires to: (i) relocate the boundaries of his Unit pursuant to N.C.G.S. Section 47C-2-112 of the Act, (ii) remove partitions or create apertures pursuant to N.C.G.S. Section 47C-2-111 of the Act, or (iii) make any improvements or alterations to his Unit which impair the structural integrity or mechanical systems of, or lessen the support of any portion of the Condominium, the procedures set out in this Article shall be followed.

9.2 Notice To and Consent of the Board.

Prior to doing any work of the kind set out in Section 9.1, the Unit Owner shall give notice to the Board of his intent to do such work and request and receive the written consent thereto of the Board. With such notice shall be

given: (i) a statement of the work to be done, (ii) a copy of the plans and specifications for the work, and (iii) such additional information relative to the proposed work as the Board may reasonably request. Upon receiving all such information and any fees and charges requested by the Board, the Board shall set a date for a meeting on the proposed work which shall be within fifteen (15) days after such information and fees and charges are received. Notice of such meeting shall be given to all members of the Association in the same manner as a notice of a special Board meeting. At the meeting the Board shall receive such testimony and evidence as it deems appropriate. The meeting may be postponed from time to time by the Board. At the meeting or at such later time, but in any event not later than thirty (30) days after such meeting, the Board shall decide whether to consent or not to consent to such work. Written notice of such decision shall be given to such Unit Owner and all members.

Nothing contained herein shall require any approval by the Board for any changes within the interior of a Unit that do not affect the structural integrity of the Unit.

9.3 Conditions.

The Board may impose conditions on any consent to such work to protect the Common Elements, Units and the Condominium, and to insure that the provisions of the Act, Declaration and these By-Laws are complied with including, without limitation, the furnishing to the Association of payment and performance bonds or other security acceptable to the Board, to insure that the proposed work is timely completed pursuant to the plans and specifications therefor, and all costs therefor paid. Accompanying any consent shall be a reallocation of all Unit Allocations, if appropriate. The reallocations determined by the Board shall be binding on the Unit and the Unit Owner.

9.4 Controlling Procedure.

The procedure set out in this Article shall control over any contrary provision of the Act.

ARTICLE X

COMPLIANCE, ENFORCEMENT, FINES AND PENALTIES

10.1 Default and Remedies.

Default or failure to comply with any of the terms, conditions, obligations and provisions of the Act, the Declaration, these By-Laws, the Articles, or the rules and regulations, as the same may be amended from time to time, by any Unit Owner or Occupant, shall be grounds for relief that may include, without intending to limit the same, or to constitute an election of remedies, an action to recover fines and penalties as determined by the Board, sums due for damages, and injunction, or any combination thereof, and which relief may be sought by the Association, an aggrieved Unit Owner, or by any person or class of persons adversely affected. Also, if any member fails to perform any obligation under the Act, the Declaration, these By-Laws, the Articles or such rules and regulations, then the Association may, but is not obligated to, perform the same for the member's account, and for such purpose may enter upon his Unit, may make necessary repairs, advance expenses or other sums necessary to cure the default, and for such other expenses and costs, may levy a special as-

assessment against the Unit owned by such defaulting member. The Association also shall be entitled to suspend the right of a defaulting Unit Owner to vote as a member of the Association until the default is cured.

10.2 Notice of Default and Failure to Cure.

In the event of any such default or failure, the Board shall serve upon or mail to the defaulting member and to each First Mortgagee of that member's Unit when required under Article XIII, Section 7, of the Declaration, a written notice specifying the nature of the default, the cure thereof, and the time within which the cure shall be effected. Within the time limit specified in the notice, the defaulting member may cure the default specified or serve upon or mail a written notice to the Board requesting a hearing before the Board. If a hearing is so requested, the Board shall thereafter serve upon or mail to the defaulting member and to each such First Mortgagee which was entitled to notice of the default as above provided, a notice specifying the time and place for such hearing. At the hearing, the Board shall take such evidence and hear such testimony as it deems necessary or desirable. The Board shall not exercise any remedies to obtain relief from the default until the hearing is over and the Board has made its determination and served upon or mailed the same to the defaulting member and each such First Mortgagee. The hearing may be continued from time to time as determined by the Board. Upon taking such evidence and hearing such testimony, the Board, at the hearing or at such later time, shall determine in writing, and at its sole option, to waive the default in whole or in part, to extend the time within which the default may be cured, or to proceed immediately to levy a fine or penalty, or to exercise any one or more of the remedies available to the Board due to such default. The Board shall serve upon or mail to the defaulting member, and to each First Mortgagee which was entitled to notice of the default as above provided, a copy of its determination. If the defaulting member does not cure the default within the time limit specified, then the Board shall serve upon or mail to the defaulting member, and to each such First Mortgagee which was entitled to notice of the default as above provided, a written notice of such member's failure to effect a cure, and the Board may then proceed to take such action as it deems necessary to obtain relief.

10.3 Remedy of Abatement in Addition to Other Remedies.

In the event a member fails to effect the cure specified by the Board within the time period allowed where the default is a structure, thing, or condition existing in or on the premises of the member's Unit, the Board, or its duly authorized representative, shall have the right to enter upon the premises of the member's Unit in which, on which, or as to which, such default exists, and summarily to abate and remove, at the defaulting member's expense (and levy an assessment therefor as provided in Section 10.1 hereof), the structure, thing, or condition constituting the default, and the Board, the Association, and their agents, employees and representatives, shall not thereby be deemed guilty of any manner of trespass.

10.4 Injunction.

Any person or class of persons entitled to seek relief for any such default or failure may obtain a temporary restraining order, injunction, or similar relief, without first using the procedure established by Section 10.2 hereof,

if such default or failure creates an emergency or a situation dangerous to persons or property.

10.5 Recovery of Attorneys' Fees and Costs.

In any proceeding arising because of an alleged default by a member, the prevailing party shall be entitled to recover the costs of such proceeding and such reasonable attorneys' fees as may be allowed by the court.

10.6 Non-Waiver of Covenants.

The failure of the Association or of any member thereof to enforce any term, provision, right, covenant, or condition that may be granted by the Declaration, these By-Laws, the rules and regulations, or the Act, as the same may from time to time be amended, shall not constitute a waiver or abrogation of the right of the Association or a member to enforce such term, provision, right, covenant, or condition in the future irrespective of the number of violations or breaches thereof that may have occurred.

10.7 Assessment Liens.

Assessment liens shall be enforced pursuant to Article VIII hereof and not pursuant to this Article X.

ARTICLE XI

AMENDMENT

An amendment to these By-Laws shall be made and approved in the manner and shall be subject to the same restrictions relative to requiring prior written consent of First Mortgagees, as set forth in Articles XII and XIII of the Declaration, and once made shall become effective on the date specified at time of adoption. The Secretary of the Association may prepare, execute, certify and record amendments to the Declaration by and on behalf of the Association.

ARTICLE XII

GENERAL PROVISIONS.

12.1 Rules and Regulations.

The Board, including the first Board, may promulgate from time to time such rules and regulations as it deems reasonable and necessary governing the administration, management, operation and use of Common Elements, so as to promote the common use and enjoyment thereof by Unit Owners and Occupants, and for the protection and preservation thereof. In addition, the Board may adopt such rules and regulations as it deems reasonable and necessary with respect to Units to provide for the common good and enjoyment of all Unit Owners and Occupants, including, without limitation, the right to adopt such rules and regulations with reference to tenants and leases.

12.2 Parliamentary Authority.

Robert's Rules of Order, newly revised, shall govern the conduct of Association proceedings when not in conflict with the Declaration, these By-Laws, the Act, or any statute of the State of North Carolina applicable thereto. The Chairman of the meeting shall have the authority to appoint a parliamentarian.

12.3 Compliance With The Act; Conflict; Severability.

These By-Laws are established in compliance with the Act, as amended. Should any of the terms, conditions, provisions, paragraphs, or clauses of these By-Laws conflict with any of the provisions of said Act, the provisions of said Act shall control unless the Act permits these By-Laws to override the Act, in which event these By-Laws shall control. In the case of any conflict between the provisions of these By-Laws and the Declaration, the Declaration shall control. If any term, provision, limitation, paragraph, or clause of these By-Laws, or the application thereof to any Person or circumstance is judicially held to be invalid, such determination shall not affect the enforceability, validity, or effect of the remainder of these By-Laws, or the application thereof to any other Person or circumstance.

ARTICLE XIII

ADDITIONAL UNITS

13.1 Amendment.

The Declaration may be amended from time to time by Declarant, in accordance with the provisions contained within the Declaration, to add additional units to the Condominium. The Owners of all such units shall become members of the Association upon recordation of an appropriate amendment to the Declaration submitting such Units to the Act.

13.2 Allowed Uses.

The amendment to the Declaration submitting additional Units to the Act shall specify the use (or uses) for which such Unit may be utilized. If more than one use is specified, there shall be specified a primary use. For all purposes of these By-Laws, the primary use as designated shall be deemed the actual use of the Unit, unless the Owner of the Unit designates, in writing, to the Board another actual use of the Unit.

13.3 Board of Directors.

Upon submission of any Unit whose primary or actual use is determined in accordance with Section 13.2 of this Article XIII, the number of total members on the Board of the Association shall increase. The number of additional Directors shall be increased for each additional primary use category, in addition to residential, by a number of Directors equal to the lesser of two (2) or the number of Units submitted to the Act with a particular use designated as primary. By way of example, should there be twelve (12) Units submitted to the Act for purposes of office and one (1) Unit submitted for purposes of furniture exhibition, the Board of Directors would consist of six (6) members, three (3) by virtue of the residential uses, two (2) by virtue of the office uses and one (1) by virtue of the furniture exhibition use. At all times there shall be three (3) Directors representing the residential Units, and no more than two (2) Directors representing any non-residential permitted use.

13.4 Selection of Directors.

The Directors shall be selected by vote of the members of those Units whose primary use has supported the crea-

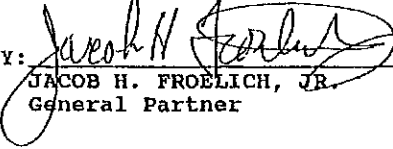
tion of the directorships; that is, residential Units shall only vote for residential Directors and retail uses shall only vote for retail Directors. All initial Directors for any use category shall be appointed by the Declarant until the annual meeting next following the submission of such Units to the Act, at which time the Units subject to the appropriate use designation shall select the Directors representing such use category.

13.5 Budget.

The Directors representing each use category shall submit to the entire Board a budget approved by such Directors for the Units represented by such Directors, including any budget items to be allocated to certain Units within the total Units allowed for a particular use; the Board shall ratify or amend a total budget for the Condominium, including ratification or amendment of any sub-budget submitted and approved by the various committees of the Board, and the budget approved by the Board shall include all expenses allocated to the entire Condominium. The budget submitted by each committee of the Board shall include adequate reserves for the Common Elements particularly associated with such committee's Units; the Board may modify the suggested reserves as it deems appropriate, and shall include in the budget for the entire Condominium adequate reserves for all Common Elements.

IN TESTIMONY WHEREOF, these By-Laws are executed effective the day they are recorded in the office of the Register of Deeds of Guilford County.

MARKET SQUARE TOWER
CONDOMINIUM ASSOCIATION

BY:  (SEAL)

JACOB H. FROELICH, JR.
General Partner

By-Laws
Froelich
#1