

BY-LAWS
OF
CITY PLAZA OWNERS ASSOCIATION, INC.

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**BY-LAWS
OF
CITY PLAZA OWNERS ASSOCIATION, INC.**

**ARTICLE I
General Provisions**

The Association is responsible for the overall administration of the Property through its duly elected Board. The Association shall have such powers, not inconsistent with the Texas Non-Profit Corporation Act, as are now or may hereafter be granted by the Act. The Association shall have and exercise all powers necessary or convenient to effect any or all of the purposes for which the Association is organized and to do every other act not inconsistent with any law and which may be appropriate to promote and attain the purposes set forth in the Act or the Condominium Instruments.

The provisions of these By-Laws, the Act, the Declaration and all other Condominium Instruments, and any and all rules and regulations that relate to the use of a Unit or the Common Elements shall be applicable to any person leasing a Unit. All such provisions shall be deemed to be incorporated into any lease executed with respect to any Unit.

**ARTICLE II
Members**

Section 1. Classes of Members, Membership, and Termination Thereof

The Association shall have one class of members. The designation of such class and the qualifications of the members of such class shall be as follows:

Each Unit Owner (including Declarant) shall be a member of the Association, and such membership shall terminate upon the sale or other disposition of such member's Unit, at which time the new Unit Owner shall automatically become a member of the Association. Such termination shall not relieve or release any such former Unit Owner from any liability or obligation incurred under or in any way connected with the Condominium or the Association, during the period of such ownership and membership in the Association. Furthermore, such termination shall not impair any rights or remedies which the Board or others may have against such former Unit Owner arising from, or in any way connected with, such ownership and membership and the covenants and obligations incident thereto. No certificates of stock or other certificates evidencing membership shall be required to be issued by the Association.

Section 2. Votes and Voting Rights

(a) Until the date of the first annual meeting of the members, as provided in Article III, Section 2 hereof, no member of the Association other than Declarant shall have the right to elect the Board of Directors: all such members of the Board shall be appointed and shall hold office as provided in Article III, Section 1 of these By-Laws.

(b) Each Unit Owner shall possess a vote with respect to each Unit owned by the Unit Owner equal in weight to such Unit Owner's percentage of ownership of the Common Elements allocated to such Unit pursuant to the Declaration.

(c) If a Unit is owned by more than one person, the voting rights with respect to such Unit shall not be divided, but shall be exercised as if the Unit Owner consisted of only one person in accordance with the proxy or other designation made by the persons constituting such Unit Owner. Any proxy must be executed in writing by the Unit Owner or his or her duly authorized attorney in fact, must bear the date of execution, and shall be invalid after 11 months from the date of its execution. If only one of the multiple owners of a Unit is present, and if any one of the multiple owners casts the vote allocated to that Unit without protest to the person presiding over the meeting being made promptly by any of the other Owners of the Unit, there is deemed to be majority agreement.

Section 3. Transfer of Membership

Membership in this Association is not transferable or assignable, except as provided in Article II, Section 1 hereof.

ARTICLE III **Meetings of Members**

Section 1. Elections During Period of Declarant Control

Until one hundred twenty (120) days after the sale of seventy-five percent (75%) of the Units that may be created to persons other than the Declarant, the Declarant shall appoint and remove all officers, all members of the Board, and the Manager. If the Declarant voluntarily surrenders such appointment and removal power before termination of the 120-day period described above, the Declarant may require, for the duration of such 120-day period, that specified actions of the Association or the Board be approved by the Declarant before they become effective. Notwithstanding the foregoing, within one hundred twenty (120) days after the sale of fifty percent (50%) of the Units that may be created to persons other than the Declarant, one-third of the members of the Board shall be elected by Unit Owners other than the Declarant, at a regular or special meeting of the Association. In no event shall the period of Declarant control described in this paragraph extend beyond three (3) years after the first conveyance of a Unit to a person other than the Declarant, at which time such period of control shall automatically expire.

Section 2. Annual Meetings

After the expiration of the Declarant's appointment and removal power, pursuant to Article III, Section 1 above, the first annual meeting of the members shall be held, at which time the then officers and Directors shall resign and a new Board shall be elected. Thereinafter, an annual meeting of the members for the purpose of electing Board members and of the transaction of such other business as may come before the meeting shall be held in March each year on a

date as shall be fixed by the Board by written notice to the members. If the election of members of the Board shall not be held on the day designated herein for any annual meeting, or at any adjournment hereof, the Board shall cause the election to be held at a special meeting of the members called as soon thereafter as conveniently may be.

Section 3. Special Meetings

Special meetings of the members may be called by the Board, the President, or by the members having votes equal to at least 20% of the percentage ownership in the Common Elements. All matters to be considered at special meetings of the members called by the members having votes equal to at least 20% of the percentage ownership in the Common Elements shall first be submitted in writing to the Board not less than ten (10) days prior to the date of the special meeting of the members called to consider such matters.

Section 4. Place and Time of Meeting

All meetings of the members shall take place at such time and location on the Property designated by the person or persons calling the meeting, or at such other reasonable place designated by the Board or the person or persons calling the meeting.

Section 5. Notice of Meetings

Written or printed notice stating the purpose, place, day and hour of any meeting of members shall be mailed or delivered to each member entitled to vote at such meeting, not less than ten (10) days nor more than thirty (30) days before the date of such meeting, by or at the direction of the President or the Secretary, or the officer or persons calling the meeting, provided that notice of the first annual meeting of the members shall be mailed or delivered not less than twenty-one (21) nor more than thirty (30) days before the date of such meeting. The notice of a meeting shall be deemed mailed when deposited in the United States mail addressed to the member at his or her address as it appears on the records of the Association, with proper postage thereon prepaid.

Section 6. Quorum

The members present at a meeting in person or by proxy, holding votes equal to 20% of the percentage ownership in the Common Elements, shall constitute a quorum at such meeting. If a quorum is not present at the commencement of any meeting of members, the meeting shall be adjourned and may only be called again in accordance with the provisions of these By-Laws.

Section 7. Proxies

At any meeting of members, a member entitled to vote may vote either in person or by proxy executed in writing by the member or by his duly authorized attorney-in-fact. No proxy shall be valid after twelve months from the date of its execution, unless otherwise provided in the proxy, and every proxy must bear the date of execution.

Section 8. Manner of Acting

Except as set forth below and except as otherwise required by the Declaration or the Act, any action to be taken at any meeting of the members at which a quorum is present shall be upon the affirmative vote of more than 50% of the percentage ownership in the Common Elements held by the members represented at such meeting, in person or by proxy. The following matters shall require the affirmative vote of not less than 66 2/3% of the percentage ownership in the Common Elements held by all the members at a meeting duly called for that purpose:

- (a) Sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all, of the property and assets of the Association.

ARTICLE IV

Board

Section 1. In General

The affairs of the Association shall be managed by its Board of Directors, which shall act as the Board of Directors of the Condominium as provided in the Act and the Declaration.

Section 2. Number, Tenure and Qualifications.

- (a) The initial number of members of the Board shall be three (3). The initial members of the Board shall be the directors named in the Articles of Incorporation of the Association; otherwise, the members of the Board shall be as appointed by the Declarant except as provided in Section 2.(b) hereinbelow. Such initial members of the Board shall hold office until their successors are elected and qualified.
- (b) Not later than one hundred twenty (120) days after Declarant has conveyed to Unit Owners other than Declarant title to fifty percent (50%) of the Units, the number of members of the Board shall be increased to five (5) and an election shall be held by the Association, pursuant to these By-Laws, for the election of not less than one-third of the members of the Board.
- (c) Not later than the termination of the period of Declarant control described in Article III, Section 1, the five (5) members of the Board shall each be elected solely by, from and among, the members. At the first annual meeting of the members, the term of office of three directors shall be fixed for two years. The term of office of two directors shall be fixed for one year. At the expiration of the initial terms of office of each respective director, his or her successor shall be elected to serve a term of two years. The directors shall hold office until their respective successors shall have been elected and qualified. All members of the Board shall be elected at large. Each member of the Board shall hold office without compensation. In the event that a member of the Board is a legal entity other than a natural person or person, then any

shareholder, officer or director of such corporation, partner of such partnership, beneficiary or individual trustee of such trust, or manager of such other legal entity, may be eligible to serve as a member of the Board. Notwithstanding the above, only one person from each Unit may be a member of the Board. A member of the Board may succeed himself or herself in office.

Section 3. Election

At each annual meeting of the members, the members shall not be entitled to vote on a cumulative basis. The candidates receiving the highest number of votes with respect to the number of offices to be filled shall be deemed to be elected. Any candidate for election to the Board or such candidate's representative shall have the right to be present at the counting of the ballots at such election.

Section 4. Regular Meetings

A regular annual meeting of the Board shall be held immediately after, and at the same place as, the annual meeting of members. The Board shall, by regulations which the Board may, from time to time adopt, provide the time and place for the holding of additional regular meetings of the Board, provided that the Board shall meet at least four times per year.

Section 5. Special Meetings

Special meetings of the Board may be called by or at the request of the President or any two members of the Board. The person or persons permitted to call special meetings of the Board may fix the time and place for holding any special meeting of the Board called by them.

Section 6. Notice

Written notice of any special meeting of the Board shall be mailed or delivered to all members of the Association at least 48 hours prior to date of such special meeting. Written notice of regular meetings of the Board shall be mailed or delivered to all members of the Association at least 48 hours prior to the date of such meeting. All such notices shall be deemed to be mailed when deposited in the United States mail addressed to each member at his or her address as it appears on the records of the Association, with proper postage thereon prepaid. The business to be transacted at, or the purpose of any regular or special meeting of the Board, shall be specified in the notice. Notices of a regular meeting of the Board need not be served on members of the Board. However, copies of said notices of meetings of the Board shall be posted in entranceways or other conspicuous places in the Condominium designated by the Board at least 48 hours prior to the meeting.

Section 7. Quorum

A majority of the members of the Board shall constitute a quorum for the transaction of business at any meeting of the Board. If less than a majority of the members of the Board are

present at the commencement of said meeting, the meeting shall be adjourned and may only be called again in accordance with the provisions of these By-Laws.

Section 8. Manner of Acting

The act of a majority of the members of the Board present at a meeting at which a quorum is present at the commencement of the meeting shall be the act of the Board, except where otherwise provided by law or in the Condominium Instruments.

Section 9. Vacancies

Except as provided in Article III, Section 1, any vacancy occurring in the Board by reason of death, removal or resignation of a member of the Board shall be filled by two-thirds vote of the remaining members of the Board. A member elected to fill a vacancy shall be elected until the next annual meeting of the members of the Association; provided that if a petition signed by members of the Association holding votes equal to 20% of the percentage ownership in the Common Elements requesting a meeting of the members to fill the vacancy for the balance of the unexpired term of his predecessor is filed with any officer of the Association, the term of the member so elected by the Board shall terminate 30 days after the filing of the petition and a meeting of the members for the purpose of filling such vacancy for such unexpired term shall be called no later than 30 days following the filing of such petition. Members of the Board, including those appointed by the Declarant, may resign at any time by written resignation delivered or mailed to any officer of the Association, which resignation shall be effective upon receipt of said resignation. If as the result of death, removal or resignation of a member of the Board, no member of the Board remains in office, a special meeting of the members of the Association may be called to fill all vacancies for the unexpired term of the members of the Board.

Section 10. Removal

From and after the date of the first annual meeting of the members, any member of the Board may be removed from office by the affirmative vote of 66 2/3% of the percentage ownership in the Common Elements held by all the members of the Association at a special meeting called for such purpose.

Section 11. Adoption of Rules and Regulations

All rules and regulations, or amendments thereto, shall be adopted by the Board after a meeting of the members called for the specific purpose of discussing the proposed rules and regulations, notice of which contains the full text of the proposed rules and regulation, which rules and regulations conform to the requirements of the Act, the Declaration and these By-Laws. No quorum is required at such meeting of the members. No rules and regulations may impair any rights guaranteed by the First Amendment to the Constitution of the United States . Such rules and regulations shall be effective sixty (60) days after their adoption, provided that the members may veto the rules and regulations at a special meeting of the members called for such

purpose, and held before the effective date of the rule or regulation, by a vote of 66 2/3% of the percentage ownership in the Common Elements held by all the members of the Association.

Section 12. Open Meetings

All meetings of the Board, whether regular or special, shall be open to the members of the Association except for meetings:

(a) To discuss litigation when an action against or on behalf of the Association has been filed and is pending in a court or administrative tribunal, or when the Board finds that such an action is probably imminent;

(b) To consider information regarding appointment, employment or dismissal of an employee; or

(c) To discuss violations of rules and regulations of the Association or a Unit Owner's unpaid share of Common Expenses. Any vote on the above matters shall be taken at a meeting or portion thereof open to any member. Any member may record the proceedings at meetings required to be open by the Act or these By-Laws by tape, film, or other means, subject to reasonable rules and regulations prescribed by the Board to govern the right to make such recordings.

Section 13. Delegation of Board Duties

Notwithstanding anything herein to the contrary, the Board may, by written instrument executed by a majority of the Board, delegate any of its duties, powers or functions to a Manager, provided that any such delegation shall be revocable upon notice by the Board. The members of the Board shall not be liable for any omission or improper exercise by the Manager of any such duty, power or function so delegated.

ARTICLE V **Officers**

Section 1. Officers

The officers of the Association shall be a President, one or more Vice-Presidents, if applicable (the number thereof to be determined by the Board), a Treasurer and a Secretary.

Section 2. Election and Term of Office

The officers of the Association shall be elected annually by the Board at the regular annual meeting of the Board, from among the members of the Board. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently possible. Vacancies may be filled or new offices created and filled at any meeting of the Board. Each officer shall hold office until his or her successor shall have been duly elected and shall

have qualified. An officer may succeed himself or herself in office. Officers shall serve without compensation.

Section 3. Removal

Any officer elected by the Board may be removed by a majority vote of the members of the Board.

Section 4. Vacancies

A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board for the unexpired portion of the term.

Section 5. President

The President shall be the principal executive officer of the Association and shall in general supervise and control all of the business and affairs of the Association. The President shall preside at all meetings of the members and of the Board. The President may sign, with the Secretary or any other proper officer of the Association authorized by the Board, any deeds, mortgages, contracts, or other instruments which the Board has authorized to be executed and any amendment to the Declaration or Plat as provided in the Declaration and the Act, and, in general, shall perform all duties incident to the office of the President and such other duties as may be prescribed by the Board from time to time.

Section 6. Vice-President

In the absence of the President or in the event of inability or refusal to act, the Vice-President, if elected, (or in the event there be more than one Vice-President, the Vice-Presidents in the order of their election) shall perform the duties of the President, and, when so acting, shall have all the power of, and be subject to all the restrictions upon, the President. Any Vice-President shall perform such other duties as from time to time may be assigned by the President or by the Board.

Section 7. Treasurer

The Treasurer shall have charge and custody of and be responsible for all funds and securities of the Association; receive and give receipts for moneys due and payable to the Association from any source whatsoever (except the Treasurer shall not have to give receipts for regular assessment payments), and deposit all such moneys in the name of the Association in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of Article VII of these By-Laws; and in general, perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the President or by the Board.

Section 8. Secretary

The Secretary shall keep the minutes of the meetings of the members and of the Board in one or more books provided for that purpose; see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law; receive all notices on behalf of the Association and together with the President, execute on behalf of the Association, amendments to Condominium Instruments and other documents as required or permitted by the Declaration, these By-Laws or the Act; be custodian of the records of the Association; and in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the President or by the Board.

ARTICLE VI

Powers and Duties of the Association and Board

Section 1. General Duties, Powers, Etc. of the Board

The Board shall exercise for the Association all powers, duties and authority vested in the Association by the Act and the Condominium Instruments, including but not limited to the following:

- (a) Operation, care, upkeep, maintenance, replacement and improvement of the Common Elements, including payments therefor, including approving payment vouchers therefor;
- (b) Preparation, adoption and distribution of the annual budget for the Property;
- (c) Levying of assessments;
- (d) Collection of assessments from Unit Owners;
- (e) Employment and dismissal of the personnel necessary or advisable for the maintenance and operation of the Common Elements;
- (f) Obtaining adequate and appropriate kinds of insurance in accordance with the Declaration, which shall include a fidelity bond;
- (g) Owning, conveying, encumbering, leasing and otherwise dealing with Units conveyed to or purchased by it;
- (h) Adoption and amendment of bylaws and rules and regulations covering the details of the operation and use of the Property;
- (i) Keeping of detailed, accurate records of the receipts and expenditures affecting the use and operation of the Property;
- (j) Having access to each Unit, from time to time, as may be necessary for the maintenance, repair or replacement of any Common Elements therein or accessible therefrom, or

for making emergency repairs therein necessary to prevent damage to the Common Elements or to another Unit or Units;

(k) Paying real property taxes, special assessments, any other special taxes or charges of the State of Texas or of any political subdivision thereof, or other lawful taxing or assessing body, which are authorized by law to be assessed and levied upon the real property of the Condominium;

(l) Imposing charges for late payments of a Unit Owner's assessments, or any other expenses lawfully agreed upon, and after notice and an opportunity to be heard, levying reasonable fines for violation of the Declaration, By-Laws, and rules and regulations of the Association;

(m) Assigning its right to future income, including the right to receive assessments;

(n) Recording the dedication of a portion of the Common Elements to a public body for use as, or in connection with, a street or utility where authorized by the Unit Owners under the provisions of Section 6(f) of the Declaration;

(o) Recording the granting of an easement for the laying of cable television cable where authorized by members holding votes equal to more than 50% of the percentage ownership in the Common Elements;

(p) Borrowing money at such rates of interest as it may determine; issuing its notes, bonds and other obligations to evidence such borrowing; and securing any of its obligations by making a mortgage or giving a security interest in all or any of its property or income, provided if such mortgage or security interest encumbers all or substantially all of the assets of the Association, the approval of the members shall first be obtained pursuant to Article III, Section 8, of these By-Laws. In the performance of their duties, the officers and members of the Board, whether appointed by the Declarant or elected by the members, shall exercise the care required of a fiduciary of the members.

(q) Accommodating the needs of a handicapped Unit Owner as required by any federal or local acts and ordinances.

Section 2. Specific Powers and Duties

Anything herein contained to the contrary notwithstanding, the Association shall have the power:

(a) To engage the services of a manager or managing agent, which may be any person, firm or corporation, upon such terms and compensation as the Association deems fit, and to remove such manager or managing agent at any time, provided any agreement with such manager or managing agent shall extend for not more than three years and must be terminable by either party to such agreement without cause and without payment of a termination fee, upon ninety (90) days or less prior written notice;

(b) To engage the services of any persons (including, but not limited to, accountants and attorneys) deemed necessary by the Association at such compensation as is deemed reasonable by the Association, in the operation, repair, maintenance and management of the Property, or in connection with any duty, responsibility or right of the Association and to remove, at any time any such personnel;

(c) To establish or maintain one or more bank accounts, or functionally similar accounts such as money market fund accounts, for the deposit of any funds paid to, or received by, the Association;

(d) To invest any funds of the Association in certificates of deposit, money market funds, or comparable investments;

(e) Upon authorization of a two-thirds vote by the members of the Board or by affirmative vote not less than a majority of the Unit Owners at a meeting duly called for such purpose, the Board acting on behalf of all Unit Owners shall have the power to seek relief from or in connection with the assessment or levy of any real property taxes, special assessments or charges of the State of Texas or any political subdivision thereof or of any lawful taxing or assessing body, and to charge and collect all expenses incurred in connection therewith as Common Expenses. Nothing herein shall be constructed to give the Association authority to conduct an active business for profit on behalf of all the Unit Owners or any of them.

Section 3. Authorized Expenditures

The Association shall acquire and make arrangements for, and pay for out of the Maintenance Fund, in addition to the manager, managing agent or other personnel above provided for, the following:

(a) Water, waste removal, heating, electricity, telephone and other necessary utility service for the Common Elements and such services to the Units as are not separately metered or charged to the owners thereof.

(b) Such insurance as the Association is required or permitted to obtain as provided in the Declaration.

(c) Landscaping, gardening, snow removal, painting, cleaning, tuckpointing, maintenance, decorating, repair and replacement of the Common Elements (but not including the Limited Common Elements which the Unit Owners enjoying the use thereof shall paint, clean, decorate, maintain and repair) and such furnishings and equipment for the Common Elements as the Association shall determine are necessary and proper, and the Association shall have the exclusive right and duty to acquire the same for the Common Elements. Anything in the foregoing to the contrary notwithstanding, the Association shall be responsible for the repair and replacement of all windows and doors from the Common Elements to a Unit (not including balcony doors and interior doors) provided that where the need for repair or replacement is due

to the act or omission of a Unit Owner, guest, occupant, family member or pet, the Association shall charge the Unit Owner for the cost of such repair or replacement.

(d) Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, or assessments which the Association deems necessary or proper for the maintenance and operation of the Property or for the enforcement of any restrictions or provisions contained herein.

(e) Any amount necessary to discharge any mechanic's lien or other encumbrance levied against the Property or any part thereof which may in the opinion of the Association constitute a lien against the Property or against the Common Elements, rather than merely against the interest therein of particular Unit Owners. Where one or more Unit Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Association by reason of said lien or liens including but not limited to, any interest, late charges, reasonable attorney's fees, costs of collections and the amount of unpaid fines shall be specially assessed to said Unit Owners and shall, until paid by such Unit Owners, constitute a lien on the interest of such Unit Owners in the Property, which lien may be perfected and foreclosed in the manner provided in Section 82.113 of the Act with respect to liens for failure to pay a share of the Common Expenses.

(f) Maintenance and repair of any Unit or any other portion of the Property which a Unit is obligated to maintain or repair under the terms hereof, if such maintenance or repair is necessary, in the discretion of the Association, to protect the Common Elements, or any other portion of the Property, and the owner of said Unit has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair is delivered by the Association to said Unit Owner; provided that the Association shall levy a special assessment against such Unit for the cost of said maintenance or repair and the amount of such special assessment shall constitute a lien on the interest of such Unit Owner in the Property, which lien may be perfected and foreclosed in the manner provided in Section 82.113 of the Act with respect to liens for failure to pay a share of the Common Expense. All expenses, charges and costs of the maintenance, repair or replacement of the Common Elements, and any other expenses, charges or costs which the Association may incur or expend pursuant hereto, shall be approved by the Association, and a written memorandum thereof prepared and signed by the treasurer. There shall be no structural alterations, capital additions to, or capital improvements on, the Common Elements (other than for the purposes of repairing, replacing and restoring portions of the Common Elements) requiring an expenditure in excess of Five Thousand Dollars (\$5,000.00) without the prior approval of members holding votes equal to 66 2/3 percent of the percentage ownership in the Common Elements.

Section 4. Annual Budget

(a) Each year on or before December 1st the Board shall estimate the annual budget of Common Expenses (the "Annual Budget") including: the total amount required for the cost of wages, materials, insurance, services and supplies which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount considered by the Association to be necessary for a reserve for contingencies and replacements, all anticipated

assessments and income and each Unit Owner's proposed Common Expense assessment, together with an indication of which portions of the Annual Budget are intended for capital expenditures or repairs or payment of real estate taxes. The Board shall deliver a copy of the proposed Annual Budget to each Unit Owner at least thirty (30) days prior to the adoption thereof. The Association shall give Unit Owners notice as provided in Article III, Section 5, of the By-Laws of the meeting of the Board at which the Board proposes to adopt the Annual Budget, or at which any increase or establishment of any assessment, regular or special, is proposed to be adopted.

(b) The Annual Budget shall be assessed to the Unit Owners according to each Unit Owner's percentage of ownership in the Common Elements. Each Unit Owner shall be obligated to pay to the Association, or as it may direct, the portion of the Annual Budget assessed to such owner in equal monthly installments (subject to acceleration as hereinafter provided) on or before January 1st of the ensuing year, and on the 1st day of each and every month of said year. The Association does not have the authority to, and cannot, forbear the payment of assessments by any Unit Owners.

(c) The failure or delay of the Association to prepare or serve the Annual Budget on the Unit Owners shall not constitute a waiver or release in any manner of the Unit Owners' obligation to pay the maintenance and other costs and necessary Reserves, as herein provided, whenever the same shall be determined, and, in the absence of any annual or adjusted budget, the Unit Owners shall continue to pay the monthly assessment charges at the then existing monthly rate established for the previous period (until the monthly assessment payment which is due more than ten (10) days after such new Annual Budget shall have been mailed to the Unit Owners).

(d) Anything herein or in the Declaration to the contrary notwithstanding, the Board may charge to fewer than all Unit Owners such portion of the insurance premium for insurance the Association is required or permitted to obtain which reflects increased charges for coverage on the Units owned by such Unit Owners, on such reasonable basis as the Board shall determine. Such charge shall be considered a Common Expense with respect to the Units owned by such Unit Owners for all purposes herein and under the Declaration.

(e) All funds collected hereunder shall be held and expended solely for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all the Unit Owners and except for such special adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use and account of all the Unit Owners in their relative percentages of ownership interest in the Common Elements.

Section 5. Annual Accounting

(a) On or before the 1st day of August of each calendar year commencing August 1, 2001, the Association shall supply to all Unit Owners an itemized account of the Common Expenses for the preceding calendar year actually incurred and paid together with an indication of which portions of the Annual Budget were for capital expenditures or repairs or payment of real estate

taxes and with a tabulation of the amounts collected pursuant to the budget or assessment, and showing the net excess or deficiency of income over expenditures plus Reserves. Any amount accumulated in excess of the amount required for actual expenses and Reserves in such preceding year shall be credited according to each Unit Owner's percentage of ownership in the Common Elements to the next monthly installments due from Unit Owners under the current year's Annual Budget, until exhausted, and any net shortage shall be added, according to each Unit Owner's percentage of ownership of the Common Elements, to the installments due in the succeeding six months after the rendering of the accounting.

(b) The Association shall allow any First Mortgagee to examine the books and records of the Association during reasonable business hours and to receive, on request, annual reports and other financial data prepared by the Association or at its direction.

Section 6. Reserves

The Association may build up and maintain a reasonable Reserve for replacement and a working capital fund for operations and contingencies. To establish such a Reserve and a working capital fund, the Declarant shall collect from each Unit Owner upon conveyance by the Declarant of a Unit to such Unit Owner, an amount equal to two (2) months of the Annual Budget as established by the Association for the Condominium allocable to such Unit and shall remit one half of such amount to the Association for a Reserve and one-half of such amount for a working capital fund. Extraordinary expenditures not originally included in the Annual Budget which may become necessary during the year shall be charged first against such Reserve. In addition, the Association or the Board shall have the right to segregate all or any portion of the Reserve for any specific replacement or contingency upon such conditions as the Association or the Board deems appropriate. Without the prior approval by majority vote of the Unit Owners (or such greater vote as may be required by law), no part of such Reserve may be spent for normal operating expenses.

Section 7. Special Assessments

(a) If said Annual Budget proves inadequate for any reason, including non-payment of any Unit Owner's assessment, or any non-recurring Common Expense or any Common Expense not set forth in the Annual Budget as adopted, the Board may at any time levy a further assessment, which shall be assessed to the Unit Owners according to each Unit Owner's percentage of ownership in the Common Elements, and which may be payable in one lump sum or in such installments as the Board may determine. The Board shall serve notice of such further assessment on all Unit Owners (as provided in Article III, Section 5, of the By-Laws) by a statement in writing giving the amount and reasons therefor, and such further assessment shall become effective and shall be payable at such time or times as determined by the Board, provided, however, that in the event such further assessment with respect to any Unit exceeds five (5) times such Unit's most recent monthly installment of Common Expenses such further assessment for all Units shall not be effective until approved by Unit Owners holding votes equal to 66 2/3% of the percentage ownership in the Common Elements at a meeting of Unit Owners duly called for such purpose. All Unit Owners shall be obligated to pay the further assessment.

(b) The Board may adopt separate assessments for expenditures relating to emergencies or mandated by law without being subject to Unit Owner approval or the provisions of Article VI, Section 1(a). Herein, "emergency" implies an immediate danger to the life, health, safety or property of the Unit Owners or the Association.

Section 8. Default in Payment(a) If a Unit Owner is in default in the monthly payment of the aforesaid charges or assessments for over sixty (60) days from the due date, the Association shall assess interest at the rate of ten percent (10%) per annum on the balance of the aforesaid charges and assessments from the due date until paid. In addition to any remedies or liens provided by law, if ,at any time, a Unit Owner is in default in the monthly payment of two (2) monthly installments of the aforesaid charges or assessments for more than fifteen (15) days, all other monthly payment of charges and assessments due for the calendar year in which such default occurs may, at the option of the Board, be accelerated and become immediately due and payable. The Association may bring suit for and on behalf of itself and as representative of all Unit Owners, to enforce collection thereof or to foreclose the lien therefor as provided by law, or both; and there shall be added to the amount due, the costs of said suit, together with interest and reasonable attorneys' fees. In addition, the Association may also exercise the power of sale and conduct a nonjudicial foreclosure sale of such defaulting Unit Owner's interest in the Property and maintain an action for possession of the Unit in the manner provided by law and the Declaration. In addition to, and cumulative with, any other remedy provided herein, the Board may exercise any and all rights and remedies granted in the Declaration, including without limitation, suspending the voting rights of any Unit Owner. No Unit Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Elements or abandonment of his or her Unit.

(b) Each such assessment, together with interest, court costs, late charges, reasonable attorneys' fees, cost of collections, and the amounts of any unpaid fines shall also be the personal obligation of the person who was the Unit Owner at the time the assessment fell due. The personal obligation for delinquent assessments shall not pass to successors in title or interest unless assumed by them, or required by applicable law.

Section 9. Unit Owner Accounts

Upon ten (10) days' notice to the Association, the payment of a reasonable fee, if any, fixed by the Association, not to exceed Fifteen Dollars (\$15.00), any Unit Owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such Unit Owner.

Section 10. Rules and Regulations

The Association may, pursuant to the provisions of Article IV, Section 11 and Article VI, Section 1(h) of these By-Laws, from time to time, adopt or amend such rules and regulations governing the operation, maintenance, beautification and use of the Common Elements and the Units, not inconsistent with the terms of the Declaration, as it sees fit, and the Unit Owners shall conform to, and abide by, such rules and regulations. Written notice of such rules and

regulations shall be delivered to all Unit Owners and occupants. A violation of such rules or regulations shall be deemed a violation of the terms of the Declaration.

ARTICLE VII **Contracts, Checks, Deposits and Funds**

Section 1. Contracts

The Board may authorize any officer or officers, agent or agents of the Association, in addition to the officers so authorized by these By-Laws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association and such authority may be general or confined to specific instances.

Section 2. Checks, Drafts, Etc.

All checks, drafts and other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the Board. In the absence of such determination by the Board, such instruments shall be signed by the Treasurer and countersigned by the President of the Association.

Section 3. Deposits

All funds of the Association shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board may elect.

ARTICLE VIII **Books and Records**

Section 1. Maintaining Books and Records

The Association shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its members, the Board and committees having any of the authority of the Board.

Section 2. Availability for Examination

The Association shall maintain the following records of the Association, and make such records available for examination and copying at convenient hours of weekdays by the Unit Owners or their mortgages and their duly authorized agents or attorneys:

(a) Copies of the Recorded Declaration, By-Laws, other Condominium Instruments and any amendments, Articles of Incorporation of the Association, annual reports, and any rules and regulations adopted by the Association or the Board. Prior to the organization of the Association, the Declarant shall maintain and make available for records set forth in this subsection (a) for examination and copying.

(b) Detailed accurate records in chronological order of the receipts and expenditures affecting the Common Elements, specifying and itemizing the maintenance and repair expenses of the Common Elements and any other expenses incurred, and copies of all contracts, leases or other agreements entered onto by the Association.

(c) The minutes of all meetings of the Association and the Board. The Association shall maintain these minutes for a period of not less than seven years.

(d) A record giving the names and addresses of the members entitled to Vote.

(e) Ballots for all elections to the Board and for any other matters voted on by the Unit Owners. The Association shall maintain these ballots for a period of not less than one year.

(f) Such other records of the Association as are available for inspection by members of a unit owners' association pursuant to the Act .

A reasonable fee covering the direct out-of-pocket cost of providing such information and copying may be charged by the Association or the Board for the cost of providing such information and copying.

ARTICLE IX **Fiscal Year**

The fiscal year of the Association shall begin on the first day of January and ends on the last day of December.

ARTICLE X **Waiver of Notice**

Whenever any notice whatsoever is required to be given under the provisions of the Uniform Condominium Act of Texas, the Non-Profit Corporation Act of Texas, the provisions of the Articles of Incorporation or By-Laws of the Association, or the Declaration, a waiver thereof (subject to all the provisions of such instruments) in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE XI **Amendments to By-Laws**

These By-Laws may be altered, amended or repealed and new By-Laws may be adopted upon the affirmative vote of members holding votes equal to 66 2/3 % of the percentage ownership in the Common Elements at a regular meeting or at any special meeting called for such purpose, by recording an instrument in writing setting forth such alteration, amendment or repeal, which is signed and acknowledged by the President or Vice-President and the Secretary

of the Association and which contains an affidavit by an officer of the Board certifying that the necessary affirmative vote of the members of the Association has been obtained.

ARTICLE XII **Indemnification**

Section 1. **Definitions**

a. “Indemnitee” means (i) any present or former Director, advisory director or officer of the Association; (ii) any person who while serving in any of the capacities referred to in clause (i) hereof served at the Association’s request as a director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan or other enterprise; and (iii) any person nominated or designated by (or pursuant to authority granted by) the Board or any committee thereof to serve in any of the capacities referred to in clauses (i) or (ii) hereof.

b. “Official Capacity” means (i) when used with respect to a Director, the office of Director of the Association, and (ii) when used with respect to a person other than a Director, the elective or appointive office of the Association held by such person or the employment or agency relationship undertaken by such person on behalf of the Association, but in each case does not include service for any other foreign or domestic corporation or any partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise.

c. “Proceeding” means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitative or investigative, any appeal in such an action, suit or proceeding, and any inquiry or investigation that could lead to such an action, suit or proceeding.

Section 2. **Indemnification**

The Association shall indemnify every Indemnitee against all judgments, penalties (including excise and similar taxes), fines, amounts paid in settlement and reasonable expenses actually incurred by the Indemnitee in connection with any Proceeding in which he was, is or is threatened to be named defendant or respondent, or in which he or she was or is a witness without being named a defendant or respondent, by reason, in whole or in part, of his or her serving or having served, or having been nominated or designated to serve, in any of the capacities referred to in Section 1, if it is determined in accordance with Section 4 that the Indemnitee (a) conducted himself or herself in good faith, (b) reasonably believed, in the case of conduct in his or her Official Capacity, that his or her conduct was in the Association’s best interests and, in all other cases, that his or her conduct was at least not opposed to the Association’s best interests, and (c) in the case of any criminal proceeding, had no reasonable cause to believe that his or her conduct was unlawful; provided, however, that in the event that an Indemnitee is found liable to the Association or is found liable on the basis that personal benefit was improperly received by the Indemnitee, the indemnification (i) is limited to

reasonable expenses actually incurred by the Indemnitee in connection with the Proceeding, and (ii) shall not be made in respect of any Proceeding in which the Indemnitee shall have been found liable for willful or intentional misconduct in the performance of his or her duty to the Association. Except as provided in the immediately preceding proviso to the first sentence of this Section 2, no indemnification shall be made under this Section 2 in respect of any Proceeding in which such Indemnitee shall have been (y) found liable on the basis that personal benefit was improperly received by him or her, whether the benefit resulted from an action taken in the Indemnitee's Official Capacity, or (z) found liable to the Association.

The termination of any Proceeding by judgment, order, settlement or conviction, or on a plea of *nolo contendere* or its equivalent, is not of itself determinative that the Indemnitee did not meet the requirements set forth in clauses (a), (b) or (c) in the first sentence of this Section 2. An Indemnitee shall be deemed to have been found liable in respect of any claim, issue or matter only after the Indemnitee shall have been so adjudged by a court of competent jurisdiction after exhaustion of all appeals therefrom. Reasonable expenses shall include, without limitation, all court costs and all fees and disbursements of attorneys for the Indemnitee.

Section 3. Successful Defense

Without limitation of Section 2 and in addition to indemnification provided for in Section 2, the Association shall indemnify every Indemnitee against reasonable expenses incurred by such person in connection with any Proceeding in which he or she is a witness or a named defendant or respondent because he or she served in any of the capacities referred to in Section 1, if such person has been wholly successful, on the merits or otherwise, in defense of the Proceeding.

Section 4. Determinations

Any indemnification under Section 2 (unless ordered by a court of competent jurisdiction) shall be made by the Association only upon a determination that indemnification of the Indemnitee is proper in the circumstances because the Indemnitee has met the applicable standard of conduct. Such determination shall be made (a) by the Board of Directors by a majority vote of a quorum consisting of Directors who, at the time of such vote, are not named defendants or respondents in the Proceeding; (b) if such a quorum cannot be obtained, then by a majority vote of a committee of the Board of Directors, duly designated to act in the matter by a majority vote of all Directors (in which designation Directors who are named defendants or respondents in the Proceeding may participate), such committee to consist solely of two (2) or more Directors who, at the time of the committee vote, are not named defendants or respondents in the Proceeding; (c) by special legal counsel selected by the Board of Directors or a committee thereof by vote as set forth in clauses (a) or (b) of this Section 4, or, if the requisite quorum of all the Directors cannot be obtained therefor and such committee cannot be established, by a majority vote of all the Directors (in which Directors who are named defendants or respondents in the Proceeding may participate); or (d) by the shareholders in a vote that excludes the shares held by Directors that are named defendants or respondents in the Proceeding. Determination as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination that indemnification is

permissible is made by special legal counsel, determination as to reasonableness of expenses must be made in the manner specified in clause (c) of the preceding sentence for the selection of special legal counsel. In the event a determination is made under this Section 4 that the Indemnitee has met the applicable standard of conduct as to some matters but not as to others, amounts to be indemnified may be reasonably prorated.

Section 5. Advancement of Expenses

Reasonable expenses (including court costs and attorney's fees) incurred by an Indemnitee who was or is a witness or was, is or is threatened to be made a named defendant or respondent in a Proceeding shall be paid by the Association at reasonable intervals in advance of the final disposition of such Proceeding, and without making any of the determinations specified in Section 4, after receipt by the Association of (a) a written affirmation by such Indemnitee of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification by the Association under this Article and (b) a written undertaking by or on behalf of such Indemnitee to repay the amount paid or reimbursed by the Association if it shall ultimately be determined that such Indemnitee is not entitled to be indemnified by the Association as authorized in this Article. Such written undertaking shall be an unlimited obligation of the Indemnitee but need not be secured and it may be accepted without reference to financial ability to make repayment. Notwithstanding any other provision of this Article, the Association may pay or reimburse expenses incurred by an Indemnitee in connection with his or her appearance as a witness or other participation in a Proceeding at a time when such Indemnitee is not named a defendant or respondent in the Proceeding.

Section 6. Other Indemnification and Insurance

The indemnification provided by this Article shall (a) not be deemed exclusive of, or to preclude, any other rights to which those seeking indemnification may at any time be entitled under the Association's Articles of Incorporation, any law, agreement or vote of members or disinterested Directors, or otherwise, or under any policy or policies of insurance purchased and maintained by the Association on behalf of any Indemnitee, both as to action in his or her Official Capacity and as to action in any other capacity, (b) continue as to a person who has ceased to be in the capacity by reason of which he or she was an Indemnitee with respect to matters arising during the period he or she was in such capacity, and (c) inure to the benefit of the heirs, executors and administrators of such a person.

Section 7. Notice

Any indemnification of or advance of expenses to an Indemnitee in accordance with this Article shall be reported in writing to the members of the Association with or before the notice or waiver of notice of the next members' meeting or with or before the next submission to members of a consent to action without a meeting and, in any case, within the twelve (12) month period immediately following the date of the indemnification or advance.

Section 8. Construction

The indemnification provided by this Article shall be subject to all valid and applicable laws, including, without limitation, Article 1396-2.22A of the Texas Non-Profit Corporation Act, and, in the event this Article or any of the provisions hereof or the indemnification contemplated hereby are found to be inconsistent with or contrary to any such valid laws, the latter shall be deemed to control and this Article shall be regarded as modified accordingly, and, as so modified, to continue in full force and effect.

Section 9. Continuing Offer, Reliance, Etc.

The provisions of this Article (a) are for the benefit of, and may be enforced by, each Indemnitee of the Association, the same as if set forth in their entirety in a written instrument duly executed and delivered by the Association and such Indemnitee and (b) constitute a continuing offer to all present and future Indemnitees. The Association, by its adoption of these Bylaws, (x) acknowledges and agrees that each Indemnitee of the Association has relied upon and will continue to rely upon the provisions of this article in becoming and serving in any of the capacities referred to in Section 1(a) of this Article, (y) waives reliance upon, and all notices of acceptance of, such provisions by such Indemnitees, and (z) acknowledges and agrees that no present or future Indemnitee shall be prejudiced in his or her right to enforce the provisions of this Article in accordance with its terms by any act or failure to act on the part of the Association.

Section 10. Effect of Amendment

No amendment, modification or repeal of this Article or any provision hereof shall in any manner terminate, reduce or impair the right of any past, present or future Indemnitees to be indemnified by the Association, nor the obligation of the Association to indemnify any such Indemnitees, under and in accordance with the provisions of the Article as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.

The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of members of the Association or disinterested members of the Board, or otherwise, both as to action in his or her Official Capacity and as to action in other capacity while holding such office, and shall continue as to a person who has ceased to be a member of the Board or an officer of the Association.

Section 11. Expenses

The sums necessary to discharge the obligations of the Association under this Article shall be Common Expenses.

ARTICLE XIII
Construction

(a) Nothing hereinabove contained shall in any way be construed as altering, amending or modifying the Declaration. Said Declaration and these By-Laws shall always be construed to further the harmonious, beneficial, cooperative and proper use and conduct of the Property. If there is any inconsistency or conflict between these By-Laws and the aforesaid Declaration, the provisions of the Declaration shall control.

(b) All words and terms used herein which are also used in the Declaration shall have the same meaning as provided in the Declaration for such words and terms.

(c) The words, "Board of Directors" and "Director" may be substituted for the words "Board" and "Member of the Board," respectively, wherever they appear herein.

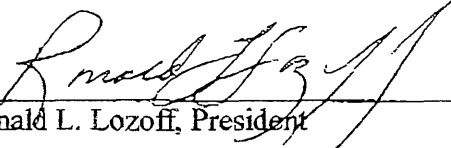
CERTIFICATE

I HEREBY CERTIFY that the foregoing is a true, complete and correct copy of the By-Laws of City Plaza Owners Association, Inc., a Texas non-profit corporation, as adopted by the initial Board of Directors at its organization meeting effective May 23, 2002.

IN WITNESS WHEREOF, I hereunto set my hand this the 3 day of June, 2002.

CITY PLAZA OWNERS ASSOCIATION, INC.

By:



Ronald L. Lozoff, President