

CONDOMINIUM DECLARATION

for

APRIL POINT NORTH, SECTION FIVE

This DECLARATION, made this the 2nd day of January 1978, by GAMMA DEVELOPMENT COMPANY, a Texas corporation (hereinafter called "Developer"), pursuant to and in accordance with the provisions of the Condominium Act of the State of Texas (hereinafter referred to as the "Act"),

W I T N E S S E T H:

WHEREAS, in pursuance of a plan for the development of a condominium project to be known and designated as APRIL POINT NORTH, SECTION FIVE, the Developer, being the owner in fee simple of the tract of land described on Appendix "A" attached hereto and made part hereof, which land is hereinafter referred to as "the project land", has executed plans for the improvement and development of said project land by construction fourteen (14) two-storey four (4) unit apartment buildings and parking spaces thereon, hereinafter more particularly described, together with certain other improvements, structures, and facilities and appurtenances thereto; and

WHEREAS, the Developer intends by this Declaration to submit said project land and all improvements thereon to the provisions of and the condominium regime established by the Condominium Act of the State of Texas, so as to thereby establish a condominium regime under said Act in respect to the project hereinafter defined and described,

NOW, THEREFORE, the Developer hereby makes the following declaration as to the definitions, divisions, descriptions, restrictions, covenants, limitations, conditions, rights, privileges, obligations and liabilities which shall apply to govern, control and regulate the sale, re-sale or other disposition, encumbrance, acquisition, ownership, use, occupancy and enjoyment of the project property and all parts thereof and the separate freehold estates hereby established, hereby specifying and agreeing that the provisions and contents of this Declaration shall be and constitute covenants to run with the land and shall be binding on Developer, its successors and assigns and grantees and all subsequent owners of all or any part of said project property and their grantees, successors, heirs, devisees, executors, administrators of assigns, to-wit:

1. DEFINITIONS - As herein used, unless the context otherwise requires:
 - (a) "ACT" means the Condominium Act of the State of Texas, as now existing or hereinafter amended from time to time.
 - (b) "DECLARATION" means this instrument and the By-Laws and all exhibits attached hereto by which the project property is submitted to the provisions of the Act, and such Declaration as from time to time lawfully amended.
 - (c) "BY-LAWS" means the By-Laws set out in Appendix "B" of this Declaration which shall govern the administration of the condominium regime hereby established in accordance with the

- provisions and requirements of the Act, and such By-Laws as from time to time hereafter lawfully amended.
- (d) "PROJECT LAND" means the land itself, excluding the improvements thereon, legally described on said Appendix "A" attached hereto.
 - (e) "PROJECT PROPERTY" means all the project land and improvements, buildings, structures, facilities, fixtures and equipment constructed, placed or erected therein or thereon, and all easements, rights, hereditaments and appurtenances thereto in anywise belonging or appertaining, submitted to the provisions of the Act.
 - (f) "APARTMENT BUILDINGS" means the fourteen (14) two-story four unit buildings located on the project land and containing the fifty six (56) condominium apartments to be individually and separately owned, depicted as Buildings A, B, C, D, E, F, G, H, I, J, K, L, M, and N on the survey plat attached hereto as an Exhibit.
 - (g) "APARTMENT" means one of the fifty six (56) separate and individual apartments into which the fourteen (14) Apartment Buildings are divided for individual and separate use and ownership as provided for in said Act and described in this Declaration and the survey plats attached hereto and includes the space encompassed by the boundaries of the apartment and certain construction and elements thereof or therein which are to be individually and separately owned, as hereinafter described, defined and established in this Declaration. An "Apartment" may also be known or referred to as a "Lakehouse Apartment", and for all purposes whatsoever the terms "Apartment" and "lakehouse Apartment" may be used interchangeably and without distinction, and one such term or designation shall include the other.
 - (h) "AUTOMOBILE PARKING SPACES" means the parking spaces that are assigned and allocated to each apartment unit that are provided for individual and separate use and ownership as provided for in said Act and as described in this Declaration and depicted on survey plat attached hereto as an Exhibit. Parking spaces which are not numbered are specifically not assigned or allocated to any apartment unit, and are a part of the common elements.
 - (i) "STORAGE ROOM OR LOCKER" means the storage room or space assigned and allocated to each apartment unit that is provided for individual and separate use and ownership as provided for in said Act and as described in this Declaration depicted on the survey plat attached hereto as an Exhibit.
 - (j) "COMMON ELEMENTS" means the general common elements consisting of all portions of the project property, except the individual apartments, storage rooms, surfaces of balconies, and numbered parking spaces which are to be individually and separately owned.
 - (k) "APARTMENT UNIT" or "UNIT" means an estate of property comprised of an apartment together with the storage room and automobile parking spaces and the undivided percentage of ownership interest in the common elements conveyed with or allocated to such apartment.
 - (l) "OWNER OF AN APARTMENT UNIT", "UNIT OWNER" and similar expressions means the person or persons whose estates or interest individually, jointly or collectively, aggregate fee simple absolute ownership of an apartment unit.
 - (m) "PERSON" means a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real

estate.

- (n) "MAJORITY OF UNIT OWNERS" means the owner or owners of apartment units whose aggregate undivided percentage of ownership interest in the common elements is fifty-one (51%) percent or more.

2. SUBMISSION OF PROJECT PROPERTY TO THE ACT - The developer as owner in fee simple of the project property, in order to establish a plan of condominium ownership in respect thereto hereby submits the project property to the condominium regime established by the Condominium Act of the State of Texas and the provisions thereof. The Developer expressly intends and declares through the recordation of this Declaration its desire to submit the project property to the condominium regime established by the Act.

3. PROJECT LAND - The project land submitted to the provisions of the Act, is the tract of land legally described on said Appendix "A" attached hereto and made part hereof, and is depicted on the survey plat attached hereto as an Exhibit, which plat shows the location, boundaries and dimensions of the project land and the location of apartment buildings and automobile parking spaces located thereon, submitted to the provisions of said Act. The project land is the subdivision known as APRIL POINT NORTH, SECTION FIVE, in Montgomery County, Texas, according to the re-plat thereof recorded in Cabinet B, Sheet 73, of the Map Records of Montgomery County, Texas and said project land is subject to the easements and dedications shown on said plat attached hereto as an exhibit, as well as the easements and dedications shown on the subdivision plat of said subdivision known as APRIL POINT NORTH, SECTION FIVE, within which subdivision the project land is located.

4. APARTMENT BUILDINGS - The Apartment Buildings located on the project land and constituting a part of the project property submitted to the provisions of the Act are each generally described as a wood frame on a concrete slab, and are depicted as Buildings A, B, C, D, E, F, G, H, I, J, K, L, M, and N on Exhibit attached hereto, and each of said buildings is further described and defined as follows:

Each of said fourteen (14) buildings is a two-story building divided into four (4) apartments, four (4) storage rooms, and two (2) attic compartments. Each apartment occupies space on only one floor. The building has exterior stairs and a second floor exterior porch or landing, which exterior stairs and porch or landing constitute a part of the common elements. Each apartment opens on a private balcony, the exterior surface of which is allocated as a portion of such apartment.

5. APARTMENTS - Each of the fifty-six (56) condominium apartments hereby established and in the aggregate contained in the fourteen (14) Apartment Buildings of this condominium project, have a direct exit to a thoroughfare or to a given common space leading to a thoroughfare. Each apartment has allocated parking spaces for two cars, and a storage room.

The boundaries of each apartment are shown and depicted on their respective floor survey plats attached as exhibits hereto, and are and shall be the interior finished surfaces of the perimeter walls, floors and ceilings, and the exterior surfaces of the balconies immediately adjoining and belonging to each apartment, and each apartment includes both the

portions of the building so described and the air space so encompassed, excepting common elements. The individual ownership of each apartment shall also include the following items, except that such items shall be deemed to be part of the building as a whole or the common elements for the purposes of any blanket hazard or casualty insurance policies mentioned in Paragraph 22 below, and the coverage and protection afforded thereunder, to-wit: The interior non-bearing and non-supporting rooms, walls and partitions, cabinets, shelves, closets, interior and exterior doors, glass in windows and doors, the finished perimeter walls, and ceilings, including carpeting or other floor covering or finish, the wallpaper or other wall covering or finish, the individual lighting and electrical fixtures, equipment, plumbing and appliances such as, but not limited to, cooking ranges, range hoods, refrigerators, sinks, dishwashers, garbage disposals, ovens, water closets, lavatories, shower stalls, bath tubs, medicine cabinets and similar equipment and fixtures, the individual air conditioning and heating units and systems, and the individual hot water heaters, all of which items aforesaid being designed and intended solely for the benefit of and to exclusively serve the particular apartment in or to which the same are located or attached, and are not designed or intended for the benefit, use, support, service or enjoyment of any other apartment or to the common elements or any part thereof.

The identifying number of each Apartment, along with its designated parking spaces shall be the address of each apartment and that address which is shown on an exhibit hereto attached shall be the legal description of subject Apartment and shall be referred thereto in all legal descriptions.

- BUILDING A: The Four (4) apartments in this building are numbered for identification as Apartments 143,144,145, and 146.
- BUILDING B: The Four (4) apartments in this building are numbered for identification as Apartments 147,148,149, and 150.
- BUILDING C: The Four (4) apartments in this building are numbered for identification as Apartments 151,152,153, and 154.
- BUILDING D: The Four (4) apartments in this building are numbered for identification as Apartments 155,156,157, and 158.
- BUILDING E: The Four (4) apartments in this building are numbered for identification as Apartments 159,160,161, and 162.
- BUILDING F: The Four (4) apartments in this building are numbered for identification as Apartments 163,164,165, and 166.
- BUILDING G: The Four (4) apartments in this building are numbered for identification as Apartments 167,168,169, and 170.
- BUILDING H: The Four (4) apartments in this building are numbered for identification as Apartments 171,172,173, and 174.
- BUILDING I: The Four (4) apartments in this building are numbered for identification as Apartments 175,176,177, and 178.

- BUILDING J: The Four (4) apartments in this building are numbered for identification as Apartments 179,180,181, and 182.
- BUILDING K: The Four (4) apartments in this building are numbered for identification as Apartments 183,184,185, and 186.
- BUILDING L: The Four (4) apartments in this building are numbered for identification as Apartments 187,188,189, and 190.
- BUILDING M: The Four (4) apartments in this building are numbered for identification as Apartments 191,192,193, and 194.
- BUILDING N: The Four (4) apartments in this building are numbered for identification as Apartments 195,196,197, and 198.

The identifying numbers, location, square footage, dimensions, size and other descriptive data of each apartment are shown on the appendix and exhibits hereto attached.

6. AUTOMOBILE PARKING SPACES - Each apartment unit is assigned two (2) parking spaces which are assigned the same identifying number as the apartment to which such spaces are allocated. Parking spaces which are not numbered constitute a part of the common elements.

7. UTILITY EASEMENTS - Valid easements shall exist in each apartment and the balcony and parking spaces thereof and in each portion of the common elements for the benefit of each unit owner, the municipality and each utility company, for the installation, maintenance, repair, removal or replacement of any and all utility lines, pipes, wires, conduits, facilities and equipment serving the apartment building as a whole or any individual apartment or appurtenant thereto or any part of the common elements, and the ownership of each apartment unit and interest in the common elements shall be subject to such easements.

8. COMMON ELEMENTS - The general common elements, also simply referred to as "Common Elements", shall consist of all the "project property as herein defined and described, except the individual apartments, surfaces of balconies, storage rooms, and parking spaces which are to be individually and separately owned, and such common elements shall include all the "project land" as hereinabove defined and described, the communication ways, the compartments for installation of central services, the foundation, bearing walls and columns, exterior walls, roofs, structural and supporting parts of all buildings, and all portions of each building (other than the finished interior or surfaces thereof, located within the individual apartments, storage rooms, surfaces of balconies, and parking spaces which are to be individually and separately owned), the outside walks and driveways, and all structures, fixtures, equipment and appliances which are designated and intended for the common and mutual use and benefit of the apartments and the space occupied by same. Reference is hereby further made to the Act for further definition of the "General Common Elements", and all references in this Declaration to the "Common Elements" shall also include the "General Common Elements" as herein and in said Act defined.

9. OWNERSHIP OF THE COMMON ELEMENTS - Each owner of an apartment shall own and be entitled to the undivided percentage of ownership interest in the Common Elements as hereinbelow assigned and allotted to each apart-

ment. Each such undivided interest shall remain fixed and constant and cannot be changed except by the written consent of each and every owner and mortgagee of an apartment unit in this condominium project duly executed, acknowledged and filed for record. Said undivided percentage interest in the common elements below allocated and assigned to each apartment shall be and remain an undivided interest and each owner shall own his interest as a tenant in common with the other unit owners. The interests in the common elements shall remain undivided and shall not be the object of an action for partition or division of the co-owners so long as suitable for a condominium regime, and in any event, all mortgages must be paid prior to the bringing of an action for partition, or the consent of all mortgagees to such action must be obtained. Any covenant to the contrary shall be void. The percentage of ownership interest herein assigned and allocated to each apartment shall not be separated from its apartment and may not be sold, conveyed, encumbered or otherwise disposed of separately from the apartment to which such interest is assigned and allocated, and each interest in the common elements all follow the respective apartment to which it is allocated and assigned, and shall be deemed to be conveyed or encumbered with its respective apartment to which it is allocated or assigned, even though the description in the instrument of conveyance or encumbrance shall refer only to the apartment. The undivided percentage ownership interest assigned and allocated to each apartment is set out below opposite the identifying number of each apartment, to-wit:

	<u>APARTMENT NUMBER</u>	<u>UNDIVIDED PERCENTAGE INTEREST</u>
<u>BUILDING A</u>	143	.017857
	144	.017857
	145	.017857
	146	.017857
<u>BUILDING B</u>	147	.017857
	148	.017857
	149	.017857
	150	.017857
<u>BUILDING C</u>	151	.017857
	152	.017857
	153	.017857
	154	.017857
<u>BUILDING D</u>	155	.017857
	156	.017857
	157	.017857
	158	.017857
<u>BUILDING E</u>	159	.017857
	160	.017857
	161	.017857
	162	.017857

	<u>APARTMENT NUMBER</u>	<u>UNDIVIDED PERCENTAGE INTEREST</u>
<u>BUILDING F</u>	163	.017857
	164	.017857
	165	.017857
	166	.017857
<u>BUILDING G</u>	167	.017857
	168	.017857
	169	.017857
	170	.017857
<u>BUILDING H</u>	171	.017857
	172	.017857
	173	.017857
	174	.017857
<u>BUILDING I</u>	175	.017857
	176	.017857
	177	.017857
	178	.017857
<u>BUILDING J</u>	179	.017857
	180	.017857
	181	.017857
	182	.017857
<u>BUILDING K</u>	183	.017857
	184	.017857
	185	.017857
	186	.017857
<u>BUILDING L</u>	187	.017857
	188	.017857
	189	.017857
	190	.017857
<u>BUILDING M</u>	191	.017857
	192	.017857
	193	.017857
	194	.017857
<u>BUILDING N</u>	195	.017857
	196	.017857
	197	.017857
	198	.017857

10. USE OF THE COMMON ELEMENTS - Each unit owner shall have the right to use and enjoy the common elements, in common with all other unit owners, for the purposes for which they are intended and as may be required for the purposes of ingress and egress to and the use and occupancy and enjoyment of the respective apartments owned by such unit owners, without hindering or encroaching upon the lawful rights of other co-owners. Such right to use and enjoy the common elements shall extend to each owner, the members

of his family, the the tenants or other lawful occupants of each apartment, and their guests, visitors, invitees or permittees, and all such other persons as may be invited or permitted by the Board of Administration of this condominium regime or its representative to use and enjoy the common elements shall be subject to and governed by the provisions of the Act, this Declaration, the By-Laws attached hereto, and the rules and regulations hereafter lawfully made or adopted by the Board of Administration or the Council of Co-Owners of this condominium regime. Each unit owner shall be deemed to have an easement in the interest of all other unit owners in the common elements for the installation, maintenance, repair or replacement of all individually owned fixtures, equipment and appliances which are in any way affixed to, supported by or located in any space or structure constituting part of the common elements. Provided, however, that each second-floor unit owner shall have the exclusive use for storage purposes of the attic space directly above his apartment unit, to the extent that such use shall be practical. The cost and expense for the maintenance, repair, upkeep, operation and replacement of the common elements shall be a common expense of all unit owners in the ratio of their respective undivided interests in the common elements.

11. WINDOWS AND DOORS - Notwithstanding any thing else in this Declaration which may be or appear to be to the contrary, the glass in all windows or doors of each apartment and all exterior and interior doors of each apartment shall be deemed to be part of the interior finished surface and individually owned and shall be repaired or replaced at the separate cost and expense of each individual unit owner, and not as a common expense.

12. COUNCIL OF CO-OWNERS - Each owner of an apartment unit shall automatically be a member of the "Council of Co-Owners" (hereinafter referred to as the "Council"), which shall be the governing and administrative body for all unit owners for the protection, preservation, upkeep, maintenance, repair, operation and administration of the project property and the condominium regime hereby established, and shall remain a member thereof until such time as his ownership ceases for any reason, at which time his membership in the Council shall also automatically cease. Upon any transfer of ownership of any apartment unit, the new owner acquiring or succeeding to such ownership interest shall likewise automatically succeed to such membership in the Council.

13. REPRESENTATION FOR VOTING - The aggregate number of votes for all members of the Council shall be one hundred (100), which shall be proportionately divided among the unit owners in accordance and in direct proportion to their respective percentage of ownership interest in the common elements as allocated and assigned in Paragraph 9 above. If any person, including Developer, shall own more than one (1) apartment unit, then his representation for voting purposes shall be determined by his aggregate ownership interest in the common elements so that he may exercise the voting rights allocated to each apartment unit owned by him. In the event any apartment is jointly owned by two or more persons, then the person or persons owning more that 50% interest in such unit shall exercise the full voting rights of any such apartment unit. The Developer, through any of its officers, directors or representatives, may exercise all the votes allocated to the unsold apartment units while owned by Developer.

14. BOARD OF ADMINISTRATION - The affairs of the Council shall be managed by a Board of Administration. At, or as soon as convenient after the organizational meeting of the Council, the Council shall elect the first Board of Administration, which shall consist of not less than seven (7) members, all of whom shall serve without pay or compensation for such term as specified in the By-Laws of this condominium regime. Such Board of Administration (hereinafter referred to as the "Board") shall have such powers, duties, functions, authority and responsibility as shall be specified in this Declaration or in said By-Laws, or as may be delegated to it from time to time by the Council.

15. BY-LAWS - The government and administration of the condominium regime hereby established shall be in accordance with the By-Laws which have been initially adopted by Developer as sole owner of the project property, and which are appended hereto and identified as such. These By-Laws may be amended from time to time by the Council in accordance with the provisions hereof.

16. ADMINISTRATION BY DEVELOPER - Until such time as Developer has sold and conveyed fifty (50) apartment units or the expiration of twenty-four (24) months from the date this Declaration is filed for record, whichever occurs first, the Developer shall be and act as the sole Administration for the government and administration of this condominium regime, and during such period it shall exclusively represent, act as and constitute the Council of Co-Owners and the Board of Administration, and shall exclusively have, exercise and perform all of the rights, powers, authority, functions and duties herein or in said Act or By-Laws given to the Council or the Board; provided, however, that the Developer, as such sole Administrator, shall have no authority to exercise any right of first refusal, unless the owners of apartments, including Developer, who, in the aggregate, represent at least sixty-five (65%) per cent ownership interest in the common elements, shall in writing consent to the exercise of such right of first refusal. During such period of time the Developer, as such administrator shall be known as the "Temporary Administrator:."

Developer acknowledges and represents that Southwestern Savings Association, a banking corporation, is the owner and holder of a mortgage and lien, as same appears of record, upon and against the property constituting and described as the project property in this Declaration, being all the project land and all improvements thereon, and it is hereby stipulated and agreed that in the event of any foreclosure of such mortgage or lien or any renewal, extension or rearrangement thereof, prior to the time Developer has sold and conveyed fifty (50) apartment units or the expiration of twenty-four (24) months from the date this Declaration is filed for record, whichever occurs first, then and in such event the purchaser at any foreclosure sale shall, at its or his option, succeed the Developer as "Temporary Administrator" and shall have and possess all of the rights, privileges, powers and authority hereinabove reserved or granted unto Developer to act as the Temporary Administrator for the government and administration of this condominium regime for the remainder of the period of time during which Developer would have been entitled to act as such Temporary Administrator but for such foreclosure sale, but it is expressly agreed and understood that such purchaser at any foreclosure sale shall act as such Temporary Administrator and shall possess the above rights, privileges and authority as such, only until the time that the number of apartment units previously sold and conveyed by Developer plus

the number of apartment units sold and conveyed by such successor Temporary Administrator shall total fifty (50) or until the expiration of twenty-four (24) months from the date this Declaration is filed for record, whichever occurs first. Said Temporary Administrator shall have all privileges and authority which Developer had or could exercise as Temporary Administrator, and, in the event the purchaser at any such foreclosure sale shall elect to succeed Developer as such Temporary Administrator, then it is agreed that the sale made to such purchaser at such foreclosure sale shall not be counted as or deemed to be a sale by the Developer for the purpose of determining or terminating the period of temporary administration hereinabove provided for, and in the case of such election it is further agreed that the purchaser at such foreclosure sale shall also succeed to all exemptions, privileges, rights, powers and authority of Developer, under paragraph 34 (AMENDMENTS) of this Declaration, and that during the time of administration by such successor Temporary Administrator the provisions of Paragraph 5(b) of Article VI (ASSESSMENTS) of the By-Laws attached as an Appendix to this Declaration shall apply to said successor Temporary Administrator and the apartment units owned by it or them.

In order to exercise the option hereinabove provided for, the purchaser at such foreclosure sale shall, within thirty (30) days from date of such foreclosure, execute, acknowledge and file for record, a written instrument setting out the fact of such foreclosure and of his or its purchase at such foreclosure sale and of his or its election to exercise the option hereinabove granted to succeed Developer as Temporary Administrator.

17. TEMPORARY MANAGING AGENT - During the period of administration of this condominium regime by Developer as Temporary Administrator, as above provided, the Developer may employ or designate a Temporary Manager or Managing Agent who shall have and possess all of the rights, powers, authority, functions and duties as may be specified in the contract of employment or as may be delegated to him by Developer. The Developer may pay such Temporary Manager or Managing Agent such compensation as it may deem reasonable for the services to be rendered, which compensation shall constitute a part of the common expenses of this condominium and shall be paid out of the "Maintenance Fund" hereinafter provided for.

18. COMMON EXPENSES - ASSESSMENTS - OTHER SPECIAL CHARGES -
(a) The owner of each apartment unit shall be bound and obligated and agrees to pay, as assessments therefor are made during his tenure of ownership, his prorata share of the expenses of administration and of maintenance, repair, upkeep, protection, replacement and operation of the common elements and of any other expenses (and appropriate reserves for any and all such purposes) lawfully agreed to by the Council of Co-Owners or the Board of Administration as authorized by the Act, this Declaration or the By-Laws appended hereto, all of which expenses herein mentioned are in this Declaration referred to as the "common expenses". The pro-rata share and part of the common expenses which shall be assessed against each unit owner, and which each unit owner agrees to pay, shall be in the same ratio and in proportion to his percentage of ownership interest in the common elements as set out in Paragraph 9 above. Assessments for common expenses and payments thereof shall be made as determined and provided for in the By-Laws appended hereto, and as from time to time amended. No owner of any apartment unit or interest therein shall be exempt from paying or

contributing his pro-rata share and part of the common expenses by waiver of the use or enjoyment of the common elements or any part thereof or by abandonment of the apartment unit or his interest therein. The amount of common expenses assessed against each apartment unit shall be the debt and obligation of the owner at the time of the assessment. No unit owner shall be liable for payment of any assessment made after his ownership ceases. Assessments for common expenses shall be on a monthly basis and shall become due and payable monthly. No assessments for common expenses shall be made in advance for any period in excess of one (1) month, except that a three (3) month deposit may be required of any new owner of a unit. All slums collected for common expenses shall constitute and be known as the "Maintenance Fund" of this condominium regime.

(b) In addition to the above, the owner of each apartment unit shall be bound and obligated, and agrees to pay, as assessment therefor is made during his tenure of ownership, a monthly charge for street light services, beginning on the date on which street lighting is extended, which charge may be included in the monthly bill for residential electric service from Gulf States Utility to each unit owner, and shall be in addition to all other charges the owner may incur for electric service. The exact amount of such charge shall be determined by Gulf States Utility.

(c) April Point North, Section Five (5) is a part of a larger community known as April Sound, which includes a number of subdivisions including the several sections of April Sound, of April Village, of April Point, and of April Point North. Each apartment unit in April Point North, Section Five (5) shall be subject to monthly subdivision charges by April Sound Property Owners Association, on the same basis as other owners and residents in the April Sound community, and owners of units in April Point North, Section Five (5) shall be entitled to the same privileges of membership in said April Sound Property Owners Association as such other residents and owners. Such subdivision charges have been currently set as Twelve Dollars (\$12.00) per month.

19. LIENS TO SECURE ASSESSMENTS AND CHARGES - The assessments and charges herein provided shall be made against the owner of each apartment unit then owning the same and also against the apartment unit itself; and in the event any unit owner shall fail or refuse to pay his assessment or charges as the same shall become due and payable then all such assessments which have not been paid shall constitute and be secured by a valid lien on such apartment unit for the benefit of all other unit owners. No lien shall exist against any apartment unit for assessments which have not yet become due and payable. Such liens shall be prior to all other liens, except that such assessments liens shall be subordinate, secondary and inferior to (1) all liens for taxes or special assessments levied by the city, county and state governments or any political subdivision or special district thereof; (2) all liens securing amounts due or to become due under any mortgage, vendor's lien or deed of trust filed for record prior to the date payment for such assessment for common expenses became due and payable; and (3) all liens securing any loan made to a purchaser for any part of the purchase price of any apartment unit when such apartment unit is purchased from the Developer.

Such lien for assessments and charges herein provided for may be foreclosed, without prejudice and subject to the aforesaid prior and superior liens, by suit by the Board of Administration or any authorized officer or member thereof, acting in behalf of all unit owners in like manner as mortgages on real property. No foreclosure suit or sale

thereunder shall affect or impair any of the prior liens above mentioned. The Board of Administration or any person authorized by it, acting in behalf of all unit owners, shall have power to bid on the apartment unit foreclosed on at the foreclosure sale, and to acquire, hold, lease, mortgage or convey the same in behalf of all unit owners. All funds realized from any foreclosure sale shall be applied first to the cost and expenses of filing and prosecuting suit, including all costs of court and a reasonable amount of attorney's fees, and then towards payment of the indebtedness sued on, and the remainder, if any, shall be paid over to the defendant or defendants in the suit as their interest may appear. In the event the proceeds realized from the foreclosure sale, applied as aforesaid, shall be insufficient to pay off and discharge the whole amount of the assessment, then the purchaser acquiring title to such apartment unit at such foreclosure sale, whoever he may be, other than the unit owner sued, shall not be liable for the deficiency, but such deficiency shall be deemed a common expense, collectible from all unit owners, including the purchaser at the foreclosure sale, on a pro-rata basis as in the case of other common expenses. The defaulting unit owner sued shall remain personally liable to the unit owners paying such deficiency.

20. STATEMENT OF ASSESSMENT - The Board of Administration or its representative shall furnish any prospective purchaser or mortgagee of any apartment unit, at the request of the Owner, a written statement as to the amount of the assessments which have become due and are unpaid up to a given date in respect to the apartment unit to be sold or mortgaged; and in the case of a sale the purchaser shall not be liable nor shall the apartment unit purchased be liable or subject to any lien for any unpaid assessment which has become due and is not shown on such statement for the period of time covered thereby. However, the selling owner shall remain liable for same and in case of his failure or refusal to pay, then the same shall be collectible from all other unit owners on a pro-rata basis in proportion to their ownership interest in the common elements, and they shall have recourse against the selling owner; but in the event of a mortgage, then the unpaid assessments not shown on said statement of the period of time covered thereby shall remain the obligation of the unit owner mortgaging his apartment unit, but the assessment liens securing same as provided for in this Declaration shall be and remain inferior and secondary to the mortgage and liens held by the mortgagee to whom or for whose information said statement was furnished.

21. UTILITIES - All utilities such as water, electricity for light and power, and telephone, which are intended to serve each individual apartment, are on separate meters and shall be separately paid by the owner of each apartment unit, and each unit owner shall also separately pay all deposits required in connection with or for such utilities and services. All utilities which are designated and intended to serve the common elements or any portion thereof shall be a common expense of all unit owners and each unit owner shall pay his pro-rata share and part thereof in the ratio of his ownership interest in the common elements, as in the case of other common expenses.

22. PROPERTY INSURANCE - The Board of Administration shall have the authority to obtain and continue in effect blanket property insurance to insure the buildings, structures and apartment units in or on the project property and the owners thereof, against risks of loss or damage by fire

and other hazards as are covered under standard extended coverage provisions, and against risks of whatever character, without prejudice to the right of each unit owner to insure his apartment unit on his own account for his own benefit. Such insurance obtained by the Board may be written in the name of and the proceeds thereof may be payable to the Board or any person designated by it or by the Council, as Trustee for each unit owner in their respective percentage of ownership interest in the common elements. Each unit owner and his mortgagee, if any, shall be a beneficiary of such insurance, in the ratio of his ownership interest in the common elements aforesaid, even though not expressly named in the policy as an insured beneficiary. All costs, charges and premiums for such insurance shall be a common expense and each unit owner shall pay his pro-rata share of same as in the case of other common expenses of this condominium regime. In case of any injury, damage to or destruction of any part of the project property covered by such insurance, the insurance indemnity and proceeds shall be applied to reconstruct or repair the building or property so damaged or destroyed, except as may be otherwise provided for by the Act, as now existing or hereafter amended. The Board of Administration shall have complete power and authority to compromise, settle and adjust any and all claims arising under any such policy or policies of insurance.

23. PUBLIC LIABILITY AND OTHER INSURANCE - The Board of Administration or its representative shall also have the authority to obtain comprehensive public liability insurance, in such limits as it shall deem desirable, and workmen's compensation insurance and any other liability insurance as it may deem desirable, insuring each unit owner and the Council of Co-Owners, Board of Administration and Managing Agent (temporary or permanent) from and against liability in connection with the common elements, to the extent such insurance may be obtained, and all costs, charges and premiums for all such insurance shall be deemed as a common expense of this condominium regime, and each unit owner shall pay his pro-rata share of same as in the case of other common expenses as provided for in this Declaration.

25. EASEMENTS FOR ENCROACHMENTS - If any portion of the common elements shall be situated or encroach upon any apartment, storage room, or parking space, or if any apartment, storage room or parking space shall actually encroach upon any portion of any other apartment, storage room, parking space, or the common elements, as the apartments, storage spaces, parking spaces and common elements actually and physically exist, or as shown by the survey plats attached hereto, then there shall be deemed to be mutual valid easements for such encroachments and for the maintenance of same so long as such encroachments exist. In the event any apartment building or other structure is totally or partially damaged or destroyed and then repaired, restored or rebuilt, the unit owners agree that all encroachments of or upon the common elements and facilities due to repair or reconstruction shall be permitted and that a valid easement for such encroachments and maintenance thereof shall exist.

26. ALTERATIONS, ADDITIONS AND IMPROVEMENTS - No alterations of any portion of the common elements or additions or improvements thereon shall be made by any unit owner without the prior written approval of the Board of Administration or Council of Co-Owners. No unit owner shall make any structural modification or substantial alteration to his apartment or the installations located in, except in a manner authorized by the Board of

Council in writing.

27. MAINTENANCE, REPAIRS AND REPLACEMENTS - Each unit owner shall furnish and be responsible for, at his own expense, all of the maintenance repairs and replacements within his own apartment, parking spaces, storage area and balcony, except as to the common elements located therein. Specifically, but without limitation, each unit owner, at his own expense, shall maintain, repair or replace the interior surfaces of his apartment and all interior partitions or room walls, all exterior and interior doors, all glass in windows or doors, the exterior and interior surfaces of the storage area and balcony, his own cooking range, oven, refrigerator, sink, garbage disposal, and all other individual kitchen appliances, his individual lighting equipment and fixtures, all interior bathroom fixtures, appliances and plumbing, and all elements and contents of his apartment, parking spaces, storage area, and balcony, which are individually and privately owned and do not constitute any part of the common elements. All portions of the common elements shall be maintained, repaired or replaced by the Board of Administration or its representative as a common expense of all unit owners. All workmen and other persons authorized by the Board of Administration or the Council of Co-Owners or their representative shall be entitled to reasonable access at reasonable times to the individual apartments as may be required from time to time in connection with the maintenance, repair or replacement of or to the common elements or any equipment, facilities or fixtures affecting or serving other apartments or the common elements. In the event and to the extent that equipment, facilities and fixtures within one apartment shall be connected to similar equipment, facilities and fixtures serving another apartment or the common elements, then reciprocal easements for the maintenance for same shall exist.

28. DECORATING - Each unit owner shall furnish and be responsible for, at his own cost and expense, all of the decorating within his own apartment, including painting or wallpapering, washing, cleaning, paneling, floor covering, draperies, wall covering, window shades, curtains, and all other furnishings and interior decorations. Each unit owner shall also keep clean at his own expense the interior and exterior surfaces of all plate glass windows or window panes.

29. USE AND ACCESS BY DEVELOPER - Until Developer has completed all construction work and has sold and conveyed all apartments, the Developer and its workmen, agents, servants or employees shall have free and unobstructed use of and access to all of the project property as may be required for the completion of construction and to facilitate sale of the unsold apartments.

30. TAXES - Taxes, assessments and other charges of the city, county, state or other political entities or any special district thereof, shall be separately assessed, and each unit owner shall pay as his own personal expense all tax assessments against his apartment unit. Taxes are not part of the common expenses.

31. LEGAL DESCRIPTION OF UNITS - The legal description of any apartment unit may consist of the identifying number of the apartment and the building in which it is located. All such descriptions or references to any apartment shall be deemed to also include and refer to the parking spaces, storage rooms, and the undivided percentage of ownership interest

in the common elements belonging to such apartment, whether expressly mentioned or not.

32. INSPECTION - WAIVER - Each purchaser of an apartment unit has full opportunity and shall be under a duty to inspect and examine the apartment to be purchased by him prior to his purchase thereof, and agrees that the apartment is purchased as actually and physically existing. It is expressly agreed, and each and every purchaser of an apartment unit agrees for himself, his heirs, executors, administrators and assigns, that the square footage, size and dimensions of each apartment, parking space, storage room, balcony, and each area constituting any part of the common elements as set out and shown in this Declaration or the survey plats attached thereto, are approximate only and are shown for descriptive purposes only, and that the Developer does not warrant, guarantee or represent that any apartment, parking space, storage room, balcony, or any other area constituting any part of the common elements actually contains the area, square footage or dimensions shown by the plat thereof; and each purchaser of an apartment unit, for himself, his heirs, executors, administrators and assigns expressly waives any claim or demand of any kind or nature which he could possibly have against Developer or any person whomsoever on account of any difference or shortage or discrepancy between the size, square footage or dimensions actually and physically existing and the size, square footage and dimensions shown on the survey plats attached hereto. It is specifically agreed that in interpreting deeds, mortgages, deeds of trust and other instruments for any purpose whatsoever, or in connection with any matter, the existing physical boundaries of any apartment, parking space, storage room, balcony, or of any apartment reconstructed in substantial accordance with the original plans thereof, shall be conclusively presumed to be the boundaries regardless of settling, rising or lateral movement of the building, and regardless of variances between boundaries as shown on the plat and the actual boundaries of the building.

33. RESTRICTIONS - The following restrictions, covenants and conditions are placed upon each apartment in this condominium project as a general plan or scheme of restrictions for the benefit of each apartment unit, to-wit:

- (1) Each apartment shall be used and occupied for residential purposes only, and for no other purpose or purposes, except as permitted in Paragraph 8 below.
- (2) No apartment shall be altered, remodeled, subdivided or converted into more than one dwelling unit.
- (3) The drying of clothing, household linens, towels, sheets, blankets, covers, spreads, swim suits, rugs, carpets, fabrics and any other materials of like or similar character to any of the foregoing, in public view, is prohibited. No trash, garbage or debris shall be placed on any part of the common elements, except in the receptacles or areas designated for disposal of same.
- (4) No signs or posters of any kind shall be placed on any part of the common elements, except as may be authorized by the Board or Council or as provided for in Paragraph 8 below.
- (5) No unlawful, immoral, noxious or offensive activities shall be carried out on or permitted in any apartment or elsewhere on the project property; nor shall anything be done therein or thereon which shall constitute a nuisance or cause unreasonable noise or disturbance to others.

- (6) No motor home, camper, recreational vehicle, motorcycle, mobile home, boat or boat trailer, or trailer of any description, shall be parked in any parking space at any time.
- (7) No television or radio antennas shall be installed on the roof or walls of any apartment except that central system which will be installed by Builder-Developer.
- (8) Provided, however, (a) that for so long as Developer owns any of the apartments which are for sale, the Developer or its agents may use any apartment which it owns as a "model apartment" for display to the public and/or as a sales office, and may place and maintain such signs on any part of the common elements as it may desire to advertise the project or the sale of the apartments, and (b) any apartment in this condominium project may be used at any time or from time to time without limitation, as the office and place of residence of a resident manager for this condominium project; and it is agreed and understood that such resident manager may also serve as manager or managing agent for any other condominium project or regime at such time hereafter created or established by or with the consent and agreement of Developer in the vicinity of the condominium project and regime established by this Declaration, and may use and occupy such apartment as an office for the management of such other condominium projects. The Developer or the purchaser of any apartment may rent or lease his apartment for residential purposes only.

34. AMENDMENTS - Except as hereinafter provided in this Paragraph the provisions of this Declaration shall not be changed or amended without the written consent of each and every unit owner who, in the aggregate, represent 100% ownership on the common elements, and each such amendment shall be filed for record in the same manner as this Declaration. No amendment shall affect or impair the rights of any mortgagee unless such mortgagee, in writing, consents to same.

Provided, however, that:

- (1) Developer as owner of any apartment reserves and shall at all times have the right to amend this Declaration without the consent or approval of any other person, other than the mortgagee of any such unit owned by it, for the purpose of correcting any typographical or other error in this Declaration or to mask this Declaration comply with the mandatory provisions of the Act, if it be deficient in any such respect, or for the purpose of redefining, redescribing, rearranging or replatting the boundaries or dimensions of any two or more apartments owned by it, or any part of such apartments, in order to make more or fewer apartments out of the same or to increase or decrease or change the size, square footage, shape or dimensions of any such apartments owned by it, or any part thereof, or for the purpose of re-allocating or reapportioning the percentage of ownership interest in the common elements as between two or more apartments owned by it, provided, however, that the aggregate interest in the common elements allocated in the aggregate to such apartments affected by any such redefinition, redescription, rearrangement, replatting or reapportionment, shall be the same as the aggregate interest in the common elements allocated in this Declaration to such apartments so affected and, provided further, that no such amendment made by Developer shall change, alter, amend or modify the size, square footage, shape, dimensions or percentage of ownership interest in the common elements of any apartment which Developer has sold and conveyed.

(2) If any amendment hereafter made to the Condominium Act of the State of Texas would not otherwise apply to the condominium regime established by the recordation of this Declaration, then the Council may, at any regular meeting or special meeting called for that purpose, adopt a resolution to amend this Declaration in order to enable the application of any such amendment to said Act to the condominium regime hereby established, provided that such resolution shall receive the affirmative vote of the unit owner or owners who represent at least fifty-one percent (51%) ownership interest in the common elements, in the aggregate. Upon adoption of any such resolution, it shall be duly executed by the presiding officer and secretary of such meeting and filed for record as an amendment to this Declaration.

37. NOTICES - Notices provided for in the Act or in this Declaration or By-Laws shall be in writing and shall be addressed to the Board or the Council at the address of the Board or its representative which may be established from time to time, and of which the unit owners shall be notified. Notices to the unit owners may be sent to the mailing address of their respective apartments, or to such other address which any unit owner may in writing designate by notice thereof to the Board or its representative.

38. SEVERABILITY - INTERPRETATION - If any provisions of this Declaration or the By-Laws or any section, sentence, paragraph, clause, phrase or word, or the application thereof in any circumstance shall be invalid or unenforceable, the validity or enforceability of the remainder of this Declaration or By-Laws and the application of any such provision, section, sentence, paragraph, clause, phrase or word in any other circumstance shall not be affected thereby. If anything in this Declaration or the By-Laws shall be susceptible to two or more interpretations, then the interpretation which shall most nearly be in accord with the intent of the Act and the general purposes and intent of this Declaration and the By-Laws shall govern.

39. DRIVEWAYS AND UTILITY EASEMENTS - The areas shown as "U E." (utility easements) and "Paved Driveway and U. E." on Exhibit attached hereto have been dedicated as such and are so designated on the subdivision plat of said subdivision known as APRIL POINT NORTH, SECTION FIVE, recorded in the map records of Montgomery County, Texas, as above mentioned, and such areas constitute part of the project land and common elements of this condominium project for use as easements and driveway and are also subject to the dedications for use by the general public to the limited extent as set out on said subdivision plat above mentioned; and, in addition to the above mentioned uses and dedications the Developer hereby reserves unto itself, its successors and assigns, and particularly for the use and benefit of the owners and/or occupants of the apartments in any subdivision or condominium project which Developer, its successors or assigns, may at any time hereafter, establish or develop on any of the land adjoining this condominium project, a perpetual and non-exclusive easement for utility and driveway purposes in, over, upon and across the said "U. E." and "Paved Driveway and U. E." as shown on said Exhibit and on said subdivision plat above mentioned, which easement shall be used in common with the owners and/or occupants of the apartments in this condominium project.

40. OMISSIONS - In the event of the omission from this Declaration of any word, sentence, clause, provision or stipulation which shall be necessary for the accomplishment of the intent and purposes hereof, or any part hereof, then such omitted matter shall be supplied by inference and/or by reference to the Act.

41. PERPETUITIES - If any provisions of this Declaration or the By-Laws would otherwise violate the rule against perpetuities or any other rule, statute or law imposing time limits, then notwithstanding anything herein to the contrary, such provision shall be deemed to remain in effect only until the death of the last survivor of the now living children of Jimmy Carter, now serving as President of the United States, plus twenty-one (21) years thereafter.

42. RESERVATION - In the event the Developer, its successors or assigns, shall at any time or from time to time hereafter decide to develop or establish any other condominium projects or regimes on any land now owned or hereafter acquired by it in the vicinity of the condominium regime hereby established, then Developer, for itself, its successors and assigns, reserves and shall have the right to call and designate any such additional condominium project or projects as "APRIL POINT NORTH, SECTION SIX", "APRIL POINT NORTH, SECTION SEVEN", etc.

43. APPLICATION OF INSURANCE PROCEEDS - Notwithstanding anything to the contrary contained herein, in case of fire or any other disaster, the insurance indemnity shall, except as provided in the next succeeding paragraph, be applied to reconstruct the building