

DECLARATION OF UNIT OWNERSHIP  
OF  
WATERFORD PLACE CONDOMINIUM ELEVEN  
A CONDOMINIUM  
\*\*\*\*\*

WATERFORD PLACE PARTNERSHIP, hereinafter called the "Developer," being the owner in fee simple of the lands and improvements thereon hereinafter described, does hereby submit such property and the appurtenances thereto to the provisions of Chapter 47A of the General Statutes of North Carolina, known as the "Unit Ownership Act," this the 13<sup>th</sup> day of December, 1984.

1. SUBMISSION TO CONDOMINIUM OWNERSHIP

The purpose of this Declaration is to submit the lands hereinafter described and the improvements constructed and to be constructed thereon to the condominium form of ownership and use in the manner provided by the Unit Ownership Act hereinabove referred to.

(a) The name by which this condominium is to be identified is WATERFORD PLACE CONDOMINIUM ELEVEN, a Condominium, hereinafter called the "Condominium," and its address is

Waterford Place Clubhouse  
Brevard, North Carolina 28712

(b) The lands owned by the Developer which are hereby submitted to the condominium form of ownership are the following:

All of that certain piece, parcel or lot of land situate, lying and being in Brevard Township, Transylvania County, North Carolina, and more particularly described as follows: BEGINNING at a point located in the center of Lake View Court, said point being the northwest corner of the property upon which Waterford Place Condominium Ten is located and runs thence with the center of Lake View Court in a northerly direction, as follows: N 38° 39' 34" E 41.05 ft; N43° 00' 13" E 67.04 ft and N 56° 12' 40" E 41.69 ft to a point located in the center of Lake View Court; thence leaving Lake View Court, running S 25° 06' 20"E 158.90 ft to an iron pin near the shore line of Waterford Lake; thence S 63° 38' 03" W 75.19 feet to an iron pin, the Northeast corner of the property upon which Waterford Place Condominium Ten is located; thence w/the line of said Condominium Ten N 55° 27' 32" W 128.77 ft. to the Beginning containing 0.36 acres, more or less, as surveyed and platted by Laughter, Venezia & Associates, P. A. in July, 1984, and revised on October 16, 1984 and on December 10, 1984, plat of which is recorded in the office of the Register of Deeds for Transylvania County, North Carolina in Plat File 2, Slide 349. TOGETHER with a right of way for travel of all kinds, on foot and with all types of vehicles, in common with all others entitled to the use thereof, over and along

43268



2

Waterford Court, Clubhouse Court and Lake View Court which lead from the Music Camp Road (State Road 1350) to the property above described with the right of ingress, egress and regress over and along the same. Together with a right of way for an electric power line, a telephone line, a waterline, a sewer line and other public utilities over and across other lands of the developer to connect with such utilities with the right of ingress, egress and regress over and along the same for the purpose of installing, maintaining and repairing said utilities.

This conveyance is made subject to a right of way for a sewer line twenty feet in width which is reserved by the developer, its successors and assigns, and which shall be located as indicated on the plat above referred to.

This conveyance is further subject to the rights of others to use Lake View Court, a thirty-foot road right of way, fifteen feet of which is located along the west boundary of the property hereinabove described.

2. DEFINITIONS

The terms used herein and in the by-laws attached hereto as Exhibit "C" shall have the meanings stated in the Unit Ownership Act as follows:

(a) "Association of Unit Owners" means all of the Unit Owners acting as a group in accordance with the By-laws and Declaration.

(a-1) "Association" means the WATERFORD PLACE CONDOMINIUM ASSOCIATION ELEVEN and its successors.

(b) "Building" means a building, or group of buildings, each building containing one or more units, and comprising a part of the property; provided, that the property shall contain not less than two (2) Units;

(c) "Common Areas and Facilities," unless otherwise provided in the Declaration or lawful amendments thereto, means everything not a Unit, and includes the following:

1. The land on which the building stands and such other land and improvements thereon as may be specifically included in the Declaration, except any portion thereof included in a Unit;

2. The foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, fire escapes, and entrances and exits of the building and breezeways;

3. Installations of central services such as power, lights, gas, hot and cold water, heating, refrigeration, air conditioning and incinerating;

4. The tanks, pumps, motors, fans, compressors, ducts, and in general, all apparatus and installations existing for common use;

5. Such community and commercial facilities as may be provided for in the Declaration; and

6. All other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

7. All other areas and property designated as "common areas and facilities by the Unit Ownership Act of North Carolina.

(d) "Common Expenses" means and includes:

1. All sums lawfully assessed against the Unit Owners by the Association of Unit Owners;

2. Expenses of administration, maintenance, repair or replacement of the common areas and facilities;

3. Expenses agreed upon as common expenses by the Association of Unit Owners;

4. Expenses declared common expenses by the provisions of Chapter 47-A of the General Statutes of North Carolina, or by the Declaration or by the By-laws;

5. Hazard insurance premiums, if required.

(e) "Common Profits" means the balance of all income, rents, profits, and revenues from the common areas and facilities remaining after the deductions of the common expenses.

(f) "Condominium" means the ownership of single Units in a multi-unit structure with common areas and facilities.

(g) "Declaration" means the instrument, duly recorded, by which the property is submitted to the provisions of Chapter 47-A of the General Statutes of North Carolina as hereinafter provided, and such declaration as from time to time may be lawfully amended.

(h) "Limited Common Areas and Facilities" means and includes those common areas and facilities which are agreed upon by all the Unit Owners to be reserved for the use of a certain number of Units to the exclusion of the other Units, such as special corridors, sanitary services common to the Units of a particular floor, and the like.

(i) "Majority" or "Majority of Unit Owners" means the Owners of more than fifty percent (50%) of the aggregate interest in the common areas and facilities as established by the Declaration assembled at a duly called meeting of the Unit Owners.

(j) "Person" means individual, corporation, partnership, association, trustee, or other legal entity.

(k) "Property" means and includes the land, the building, all improvements and structures thereon and all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith, which have been or are intended to be submitted to the provisions of Chapter 47-A of the General Statutes of North Carolina.

(l) "Recordation" means to file of record in the office of the County Register of Deeds in the County where the land is situated, in the manner provided by law for recordation of instruments affecting real estate.

(m) "Unit" or "Condominium Unit" means an enclosed space consisting of one or more rooms occupying all or a part of a floor or floors in a building of one or more floors or stories regardless of whether it be designed for residence, for office, for the operation of any industry or business, or for any other type of independent use, and shall include such accessory spaces and areas as may be described in the Declaration, such as parking space, storage space, balcony, terrace or patio, provided, it has a direct exit to a thoroughfare or to a given common space leading to a thoroughfare.

(n) "Unit Designation" means the number, letter, or combination thereof designating the Unit in the Declaration.

(o) "Unit Owner" means a person, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns a Unit within the building.

### 3. DEVELOPMENT PLANS

The Condominium is being developed according to the following plans:

(a) A survey of the land to be developed is attached as Exhibit "A".

(b) The improvements will be constructed by the Developer substantially in accordance with the plans and specifications therefor prepared by Phillip B. Ramsey, P. E., which are attached hereto as Exhibit "B".

(c) The general common areas and facilities consists of the entire property other than condominium units, including, without limitation:

1. The land on which the buildings are erected and all the land surrounding the buildings that lies within the boundaries of the land from time to time subject to this DECLARATION, and exterior walls, roofs, interior walls (except the drywall, panelling, moulding and floor covering), ceilings, floors, etc. and every part of the buildings and property other than the condominium units.

2. The foundation and structural members, including columns, girders, beams and supports.

3. All installations designed and intended for common use or to serve more than one unit such as, but not limited to, electrical service, gas and plumbing, whether located in common areas or in condominium units, excluding from such installations all parts thereof, and all items affixed or connected thereto not designed or intended for common use or by more than one unit.

4. Easements for access, maintenance, repair, reconstruction, or replacement of the above-mentioned common areas and facilities and all other services necessary or convenient to the existence, maintenance, safety and use of the property.

5. The yards, landscaping, fences, non-public roads and driveways, parking areas, walks, retaining walls, and all paved areas.

6. All maintenance and recreational areas.

7. Any portion of the property shown and designated on the Plans as Common Area or Limited Common Area.

8. Any structural member or load bearing wall which may not be changed without the prior written consent of the Board of Directors.

9. All deck ceiling fans and all lights which are controlled from within the unit shall be a part of the unit. The repair and replacement of the same shall be the responsibility of the unit owner, however, the type and style of such fans and lights shall be subject to the control of the Board of Directors.

Each Unit Owner has the proportionate interest therein as set forth in paragraph 6 herein.

(d) This Declaration may be amended by filing such additional plans as may be required to describe adequately the completion of the improvements. Such completion may be shown by a certificate of an architect, engineer or surveyor certifying that the improvements have been constructed substantially as herein represented or designating any changes made. Such plans or certificate, when signed and acknowledged by the Developer shall in themselves constitute an amendment of this Declaration,

notwithstanding the procedures for amendment described elsewhere in the Declaration.

(e) Easements are reserved through the Condominium property as may be required for utility services.

4. UNIT BOUNDARIES

Each unit shall include all the space within the boundaries thereof. Each unit is bounded both as to horizontal and vertical boundaries by the unexposed facing of drywall (the facing next to studs or structural portions of buildings) and unexposed facing of finish moulding or panelling of its walls and ceilings, and the unfinished upper surface of floors. It is the intent hereof that the unit will include all interior drywall, panelling and moulding and any surface finish, or wallpaper, and all finished flooring, such as exposed wooden flooring, vinyl or linoleum floor covering, matting and carpeting, but will not include studs, supports and wall insulation, concrete slabs, floor or ceiling joists. Each unit shall be deemed to include the interior and exterior of any and all doors, windows, sliding glass doors, and other closures. However, all exterior colors shall be in good taste in keeping with the general decor of the development, and in case of dispute, shall be subject to the decision of the Board of Directors. Included as part of a unit are all door locks or other security or mechanical devices which control the opening and closing of doors and windows. Included also as a part of a unit are the following:

- (a) the heating and air conditioning systems serving the unit, wherever located;
- (b) the electrical wiring and service system, wherever located, from the service meter to the place where it connects with all uses within the unit;
- (c) the plumbing for water service from the last junction with a water line serving another unit to its end use in a unit and
- (d) the drainage or sewer plumbing from its collection point in a unit to their junction with a line servicing other units.

In interpreting this DECLARATION and its Plans, the actual physical boundaries of a unit as originally constructed, or of a unit reconstructed in substantial compliance with the original plans thereof, shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in this DECLARATION, or its Plan, regardless of settling or lateral movement of the building, and regardless of minor variances between boundaries shown on the Plans, and those of the Unit. Each Unit designation, type unit, and percentage interest in the Common Areas and Facilities are set out in Paragraphs 5 and 6 hereof.

5. DESCRIPTION OF UNITS

WATERFORD PLACE CONDOMINIUM ELEVEN is a two story wood structure containing four (4) units, 2 units located on the first floor and 2 units located on the second floor. This Building is described graphically in the Plans of such building, a copy of which is attached as Exhibit "B", that shows the particulars of said building, including the location, layout, number of rooms, dimensions, ceiling and floor elevations, approximate area, building designations, unit numbers and location of the common areas and facilities affording access to each unit.

The building is principally constructed of brick and vinyl siding with asphalt shingle roofs. The bottom floor of said building is of masonry foundation with elevated floor joists. Subject to permitted options, kitchens are equipped with oven, range, range hood with exhaust fan, refrigerator, sink, dishwasher, and wall cabinets and the bathrooms have vanities, sinks, tubs and water closets. For a more particular description of the principal materials of which such building is constructed, reference is made to the Plans filed herewith as Exhibit "B".

Each Unit has access to the immediate common area shown on plat prepared by Laughter, Venezia & Associates, P. A., and recorded in the office of the Register of Deeds for Transylvania County, to which reference is hereby made for a more complete description.

The Developer reserves the right to change the interior design and arrangement of all units and to alter the boundaries between units so long as the Developer owns the units so altered. Any such change shall be reflected by an amendment of this Declaration which may be executed by the Developer alone, notwithstanding the procedures for amendment described in paragraph 18 of this Declaration. However, no such change shall increase the number of units nor alter the boundaries of the common elements without amendment of this Declaration in the manner described in paragraph 18 of this Declaration. If more than one (1) unit is altered the Developer shall appropriately reapportion the shares in the common elements which are allocated to the altered units.

6. SHARES OF COMMON ELEMENTS AND EXPENSES

Each Unit Owner shall own a share in the common elements and in any surplus possessed by the Association, and be liable for common expenses as follows:

Unit 1101	24%
Unit 1102	26%
Unit 1103	26%
Unit 1104	24%

7. MAINTENANCE AND ALTERATION OF UNITS

(a) The Association shall maintain, repair and replace:

1. All portions of a unit, except interior surfaces, contributing to the support of the Condominium building, which portions shall include but not be limited to the outside walls of the Condominium building and all fixtures on the exterior thereof; boundary walls of Units; floor and ceiling slabs; and load-bearing walls; and

2. All conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services which are contained in the portions of a Unit maintained by the Association; and all such facilities contained within a Unit which service part or parts of the Condominium other than the Unit within which contained.

3. All of the following:

(a) The foundations, columns, girders, beams, supports, main walls, roofs, lobbies, fires escapes and entrances and exits of the Condominium Buildings;

(b) The yards, gardens, and storage spaces.

(c) Installations of central services such as power, lights, gas, water and sewer system.

(d) All apparatus and installations existing for common use.

(e) Television antenna and leads into the individual Units.

(f) Driveways and parking areas.

(g) Outside lights not controlled from within a unit.

(h) Fire and extended coverage in at least the sum of One Hundred Seventy Five Thousand Dollars (\$175,000.00) per Building.

(i) Public liability insurance in at least the sum of Five Hundred Thousand Dollars (\$500,000.00).

(j) Sewer system, including septic tanks and pipe lines.

(k) Electricity for outside lights and all other common facilities requiring power.

(l) Such other duties imposed upon the Association by Chapter 47-A of the General Statutes of North Carolina, except such thereof as are specifically required to be exercised by its Directors or Members.



4. All incidental damage caused to a Unit by such work shall be promptly repaired at the expense of the Association.

(b) The responsibility of the Unit Owner shall be:

1. To maintain, repair, and replace at his expense all portions of his Unit except the portions to be maintained, repaired and replaced by the Association;

2. Not to paint or otherwise decorate or change the appearance of any portion of the exterior of the Condominium building including any patio forming a part of said Unit.

3. To promptly report to the Association any defect or need for repairs the responsibility for which is that of the Association.

(c) Except as elsewhere reserved to the Developer, neither a Unit Owner nor the Association shall make any alteration in the portions of a Unit or the Condominium building which are to be maintained by the Association, or remove any portion thereof, or make any additions thereto, or do anything which would jeopardize the safety or soundness of the Condominium building, or impair any easement, without first obtaining approval in writing of owners of all Units in which such work is to be done and the approval of the Board of Directors of the Association. A copy of plans for all of such work prepared by an architect licensed to practice in this State shall be filed with the Association prior to the start of the work.

#### 8. MAINTENANCE AND ALTERATION OF COMMON ELEMENTS

(a) The maintenance and operation of the common areas and facilities, both general and limited, shall be the responsibility and the expense of the Association, which shall have the right to employ a management agent therefor. The Association has entered a Management Agreement which is attached hereto as Exhibit "E".

(b) After the completion of the improvements included in the common elements which are contemplated by this Declaration there shall be no alteration or further improvement of the real property constituting the common elements without prior approval in writing by the Owners of not less than seventy-five percent (75%) of the common elements except as provided by the By-laws, but any such alteration or improvements shall not interfere with the rights of any Unit Owner. The cost of such work shall not be assessed against a bank, life insurance company, or savings and loan association which acquires its title as the result of owning a mortgage upon a Unit unless such owner shall approve the alteration or improvement, and this shall be so whether the title is acquired by deed from the mortgagor or through foreclosure proceedings. The share of any cost not so assessed shall be assessed to the other Unit Owners in the proportions which their shares in the common elements bear to each other. There shall be

no change in the shares and rights of a Unit Owner in the common elements which are altered or further improved, whether or not the Unit Owner contributes to the cost thereof.

9. ASSESSMENTS

(a) Assessments against Unit Owners for common expenses shall be made pursuant to the by-laws and shall be allocated as set forth in Article 6 of this Declaration. However, if services are furnished to Unit Owners beyond the maintenance and operation of the Condominium property, such as operation of a restaurant or bar, no assessment on account of such services shall be made against a bank, life insurance company, or savings and loan association which acquires its title as a result of owning a first mortgage upon a Unit, unless the occupant of the Unit owned by such an institution voluntarily accepts such services. This shall be so whether the title is acquired by deed from the mortgagor or through foreclosure proceedings. The shares of any cost or loss not so assessed shall be assessed to the other Unit Owners in the proportions which their shares in common elements bear to each other.

(b) Assessments and installments thereon paid on or before ten days after the date when due shall not bear interest, but all sums not paid on or before ten days after the date when due shall bear interest at the rate of ten per cent per annum from the date when due until paid. All payments upon account shall be first applied to interest and then to the assessment payment first due.

(c) The lien for unpaid assessments provided by North Carolina law shall also secure reasonable attorneys' fees incurred by the Association incident to the collection of such assessment or enforcement of such lien.

(d) In any foreclosure of a lien for assessments the Owner of the Unit subject to the lien shall be required to pay a reasonable rental for the Unit, and the Association shall be entitled to the appointment of a receiver to collect such rental.

(e) Notwithstanding anything in this Declaration to the contrary, no assessments shall be made as against any unit owned by the Declarant until the 1st day of the seventh calendar month following the day the unit is subjected to this Declaration of Unit Ownership by the filing of the Architect's of Professional Engineer's certificate required by General Statute, Section 45A-15. If the unit is conveyed by the Declarant between the time the unit is subjected to this Declaration of Unit Ownership and the 1st day of the seventh calendar month following the day the unit is subjected to this Declaration, then the assessments shall be valid and enforceable against the unit commencing with the 1st day of the first month following the day of transfer by the Declarant.

## 10. ASSOCIATION.

The operation of the Condominium shall be by WATERFORD PLACE CONDOMINIUM ASSOCIATION ELEVEN, herein called the Association, a non-profit corporation under the laws of North Carolina, which shall be organized and shall fulfill its functions pursuant to the following provisions:

(a) The members of the Association shall be the Unit Owners.

(b) The Association shall be incorporated under Articles of Incorporation in the form attached as Exhibit "D".

(c) The By-laws of the Association shall be in the form attached as Exhibit "C".

(d) Notwithstanding the duty of the Association to maintain and repair parts of the Condominium property, the Association shall not be liable for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association, nor for injury or damage caused by the elements or other owners or persons.

(e) The share of a member in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as an appurtenance to his Unit.

(f) Whenever the decision of a Unit Owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person who would cast the vote of such owner if in an Association meeting, unless the joinder of record owners is specifically required by this Declaration.

## 11. INSURANCE

The Association shall obtain and maintain at all times for the benefit of the Association and the Owners and their mortgagees insurance of the types and kinds and in at least the amounts provided for hereinafter, including insurance for such other risks, of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to other condominium projects similar in construction, design and use covering the items and upon the terms and conditions hereinafter set forth:

### (a) Types of Insurance.

1. A policy or policies of fire insurance as the same is more fully set forth hereinafter, with extended coverage endorsement, for the full insurable replacement value of the Units and common areas, payable as provided in paragraph 12, or such other

fire and casualty insurance as the Association shall determine gives substantially equal or greater protection to the Owners and their mortgagees, as their respective interests may appear, which said policy or policies shall provide for a separate loss payable endorsement in favor of the mortgagee or mortgagees of such Condominium Unit, if any.

2. A policy or policies as the same is hereinafter fully set forth insuring the Association, the owners and their representative or representatives against any liability to the public or to the owners of Units and of the common area, and their invitees or tenants, incident to the ownership and use of the project, and including the personal liability exposure of the owners. Limits of liability under such insurance shall be not less than Three Hundred Thousand Dollars (\$300,000) for any one person injured, or for any one accident, and shall not be less than One Hundred Thousand Dollars (\$100,000) for property damage each occurrence, such limits and coverage to be reviewed at least annually by the Association and increased in its discretion. Said policy or policies shall be issued on a comprehensive liability basis and shall provide cross liability endorsement wherein the rights of named insured under the policy or policies shall not be prejudiced as respects his, her or their action against another named insured.

3. Workmens Compensation insurance to the extent necessary to comply with any applicable laws;

4. Such other insurance as the Board of Directors shall determine from time to time to be desirable.

(b) Provisions.

The insurance provided for hereinabove shall be governed by the following provisions:

1. All policies shall be written with a company licensed to do business in the State of North Carolina and holding a rating of A, Class XV, or better by Best's Insurance Reports;

2. Exclusive authority to adjust losses under policies hereinafter in force in the projects shall be vested in the Association or its authorized representative;

3. In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual owners or their mortgagees;

4. Each Owner may obtain additional insurance at his own expense; provided, however, that such insurance shall be obtained from the same insurance carrier insuring the Condominium and common elements unless written permission is received from the Association authorizing the use of another carrier, and no Owner

shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Association, in behalf of all of the Owners, may realize under any insurance policy which the Association may have in force on the project at any particular time;

5. Each Owner shall be required to notify the Association of all improvements made by the Owner to his Unit, the value of which is in excess of One Thousand Dollars (\$1,000);

6. Any Owner who obtains individual insurance policies covering any portion of the project other than personal property belonging to such Owner, shall be required to file a copy of such individual policy or policies with the Association within thirty (30) days after purchase of such insurance;

7. The insurer issuing the Master Policy covering the Condominium and common areas shall issue sub-policies to each Owner specifying the portion of the Master Policy earmarked for each Owner's interest, and, upon request, shall likewise issue a certificate or endorsement to a lender holding a mortgage or lien on an Owner's Unit noting the aliquot share of the blanket insurance permanently allotted to such lender's security. Such sub-policies shall further stipulate that, until the insurance carrier furnishes notice and a grace period to the mortgagee, the latter's coverage shall neither be jeopardized by the conduct of the mortgagor, Association or other Unit Owners nor cancelled for nonpayment of premiums.

(c) Further Provisions.

The Association shall be required to make every effort to secure insurance policies that will provide for the following:

1. A waiver of subrogation by the insurer as to any claims against the Association, any manager employed by the Association, the Owners and their respective servants, agents and guests;

2. That the Master Policy on the project cannot be cancelled, invalidated or suspended on account of the conduct of any one or more individual Owners;

3. That the Master Policy on the project cannot be cancelled, invalidated or suspended on account of the conduct of any officer or employee of the Association or manager employed by it without a prior demand in writing that the Association or the manager employed by it cure the defects;

4. That any "no other insurance" clause in the Master Policy exclude individual Owner's policies from consideration.

(d) Annual Review.

The limits and coverage hereinabove provided for shall be reviewed at least annually by the Association and increased or decreased in its discretion. The annual insurance review herein provided for shall include an appraisal of the improvements in the project by a representative of the insurance carrier writing the Master Policy.

(e) Payment of Premium.

Premiums upon insurance policies purchased by the Association hereinabove provided for shall be paid by the Association as a common expense.

12. RESPONSIBILITIES OF INSURANCE TRUSTEE

(a) All insurance policies purchased by the Association shall provide that proceeds covering property losses shall be paid to any bank in North Carolina which is selected by the Board of Directors of the Association as a Trustee, which bank is herein referred to as the Insurance Trustee. The Insurance Trustee shall not be liable for payment of premiums, for the renewal or the sufficiency of policies, or for the failure to collect any insurance proceeds.

(b) The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold them in trust for the benefit of the Unit Owners and their mortgagees as follows: an undivided share of such proceeds on account of damage to common elements shall be allocated to the Unit Owners according to their shares of the common elements set forth in paragraph 6. Proceeds on account of Units shall be held for the Owners of damaged Units in proportion to the cost of repairing the damage suffered by each Unit Owner, which cost shall be determined by the Association. In the event a mortgagee endorsement has been issued to a Unit, the share of the Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear.

(c) Proceeds of insurance policies received by the Insurance Trustee shall be distributed as follows:

1. All expenses of the Insurance Trustee shall be first paid.
2. If the damage for which the proceeds are paid is to be repaired or reconstructed the remaining proceeds shall be expended as provided in paragraph 14. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittances to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a unit and may be enforced by such mortgagee.
3. If it is determined as provided in paragraph 13 that the damage for which the proceeds are paid shall not be

reconstructed or repaired, or if there are excess proceeds remaining after a reconstruction and repair, the remaining proceeds shall be distributed to the beneficial Owners of the damaged or destroyed building or buildings, remittances to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

4. In making distribution to Unit Owners and their mortgagees, the Insurance Trustee may rely upon a certificate of the Association as to the names of the Unit Owners and their respective shares of the distribution, and as to whether or not the building is to be reconstructed or repaired.

13. WHEN DAMAGED PROPERTY IS TO BE RECONSTRUCTED OR REPAIRED.

(a) If common elements are damaged, they shall be reconstructed or repaired, unless it is determined under Paragraph 19 that the Condominium shall be terminated.

(b) If the damaged property is a Condominium building and if Units to which fifty (50) per cent or more of the common elements are appurtenant are found by the Board of Directors of the Association to be tenantable, the damaged property shall be reconstructed or repaired unless within sixty (60) days after the casualty it is determined under Paragraph 19 that the Condominium shall be terminated.

(c) Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original building prepared by Phillip B. Ramsey, P. E., or if not, then according to the plans and specifications approved by the Board of Directors of the Association, and if the damaged property is the Condominium Building, by the Owners of not less than sixty (60) per cent of the common elements, including the Owners of all damaged Units, which approval shall not be unreasonably withheld.

(d) If the damaged property is a Condominium Building and if Units to which more than two-thirds of the common elements are appurtenant are found by the Board of Directors to be not tenantable, the damaged building will not be reconstructed or repaired if the Owners of three-fourths of the said damaged building duly resolve not to proceed with repair or restoration, and the Condominium will be terminated as to the damaged building under Paragraph 19. Then and in that event:

1. The damaged or destroyed building and that portion of the land and common elements allocated to it as hereinafter set forth shall be deemed to be owned as tenants in common by the Unit Owners of said building;
2. The undivided interest in the said damaged or destroyed building and that portion of the land and

common elements allocated as hereinafter provided owned by the Unit Owners of said property as tenants in common which shall appertain to each said Owner shall be that percentage which the percentage of undivided interest previously owned by such Owner in the entire Condominium property bears to the whole value of said damaged or destroyed building and that portion of the land in common elements allocated to it as hereinafter provided, treating the sum of said undivided interests of the Unit Owners of said damaged or destroyed building in the entire Condominium property as a whole;

3. The said damaged or destroyed building and that portion of the land and common elements allocated to it shall then be offered for sale to the Association within thirty (30) days after the decision not to repair or reconstruct the said building has been made. Such offer shall be in writing and shall be sent by certified mail, and shall contain a price at which the Owners of said property are willing to sell. If the Association desires to purchase the same, but does not agree to the price demanded by the said Owners it shall so notify the said Owners by certified mail within thirty (30) days after receipt of said offer. If the parties are not able to agree upon a price, then the same shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two (2) appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the Units; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any Court of competent jurisdiction. In the appraisal of said damaged or destroyed property there shall be allocated to it that portion of the land and common elements of the entire Condominium property which the sum of the undivided interests of the Unit Owners of said building have in the entire Condominium property bears to the whole. Provided, that the portion of the Condominium land and common elements so allocated shall be, so far as practicable, contiguous to said damaged or destroyed building. The expense of the arbitration shall be paid equally by the Owners offering to sell and the Association. The purchase price shall be paid in cash, and the sale shall be closed within thirty (30) days after the delivery or mailing of such offer to purchase, or within ten (10) days after the determination of the sale price if such is by arbitration, whichever is the later.



4. In the event the Association does not elect to purchase as hereinabove provided, the damaged or destroyed building and that portion of the land and common elements allocated to it as hereinabove provided shall be subject to an action for sale for partition at the suit of any Unit Owner thereof, in which event the net proceeds of sale, together with the net proceeds of insurance policies, if any, shall be considered as one fund and shall be divided among all the Unit Owners of said building and property in proportion to their respective undivided ownership in said property as determined by sub-paragraph 2 hereinabove set forth, after paying off, out of the respective shares of the Unit Owners, to the extent sufficient for that purpose, all liens on the Unit of each Unit Owner;
5. No mortgagee shall have any right to participate in the determination as to whether damaged property shall be reconstructed or repaired.

14. RESPONSIBILITIES AND PROCEDURES AS TO PAYMENT FOR REPAIRS

(a) If damage occurs only to those parts of one Unit for which the responsibility of maintenance and repair is that of the Unit Owner, then the Unit Owner shall be responsible for reconstruction and repair after casualty. In all other instances the responsibility of reconstruction and repair after casualty shall be that of the Association.

(b) Immediately after a casualty causing damage to property for which the Association has the responsibility of maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair so as to place the damaged property in condition as good as that before the casualty.

(c) If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, assessments shall be made against the Unit Owners directly affected in the case of damage to common elements in sufficient amounts to provide funds to pay the estimated costs. Additional assessments may be made at any time during, or following the completion of construction. Such assessments against Unit Owners for damage to Units shall be in proportion to the cost of reconstruction and repair of their respective Units. Such assessments on account of damage to common elements shall be in proportion to the Owner's share in the common elements.

(d) If the amount of the estimated costs of reconstruction and repairs for which the Association is responsible is more than Five Thousand Dollars (\$5,000) the sums paid upon assessments to meet such costs shall be deposited by the Association with the

Insurance Trustee. In all other cases, the Association shall hold the sums paid upon such assessments and disburse them in payment of the costs of reconstruction and repair.

(e) The proceeds from assessments and insurance received by the Insurance Trustee shall be disbursed as follows:

1. The portion of insurance proceeds representing damage, the reconstruction and repair of which is the responsibility of the Unit Owner, shall be paid by the Insurance Trustee to the Unit Owner (or if there is a mortgagee endorsement, then to the Unit Owner and the mortgagee jointly), who may use such proceeds as they may be advised.

2. The portion of insurance proceeds representing damage, the reconstruction and repair of which is the responsibility of the Association, shall be disbursed in payment of the costs of such repair and reconstruction in the manner required by the Board of Directors of the Association and upon approval of an architect qualified to practice in North Carolina and employed by the Association to supervise the work.

3. The Insurance Trustee shall not be required to determine whether a disbursement is to be made, the identity of the payee, or the amount to be paid, but may rely upon a certificate of the Association stating such information.

#### 15. USE RESTRICTIONS

The use of the property of the Condominium shall be in accordance with the following provisions:

(a) Each of the Units shall be occupied only by a family, its servants, and guests, as a residence and for no other purpose. Except as reserved to the Developer, no unit may be divided or sub-divided into a smaller Unit nor any portion thereof sold or otherwise transferred without first amending this Declaration to show the changes in the Units to be affected thereby.

(b) The common elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the Units.

(c) No use or practice shall be permitted on the Condominium property which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the property by its residents. All parts of the property shall be kept in a clean and sanitary condition, and no rubbish, refuse, or garbage allowed to accumulate nor any fire hazard allowed to exist. No Unit Owner shall permit any use of his Unit or of the common elements which will increase the rate of insurance upon the Condominium property. No immoral, improper, offensive or unlawful use shall be made of the

Condominium property or any part thereof. All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification, or repair of the Condominium property shall be the same as the responsibility for the maintenance and repair of the property concerned. No rooms may be rented or transient guests accommodated.

(d) Until the Developer has completed and sold all of the Units, neither the Unit Owners nor the Association nor the use of the Condominium property shall interfere with the completion of the contemplated improvements and the sale of the Units. The developer may make such use of the unsold Units and common areas as may facilitate such completion and sale, including but not limited to the maintenance of a sales office, the showing of the property, and the display of signs.

(e) Reasonable regulations concerning the use of the Condominium property may be made and amended from time to time by the Association in the manner provided by its Articles of Incorporation and By-laws. Copies of such regulations and amendments thereto shall be furnished by the Association to all Unit Owners and residents of the Condominium upon request. Rules and regulations adopted by the Association are attached hereto as Exhibit "F".

#### 16. TRANSFER OR LEASE

A Unit Owner making a sale or lease of his Unit or any interest therein shall give to the Association notice of such sale or lease, together with the name and address of the purchaser or lessee, and such other information concerning the intended purchaser or lessee as the Association may reasonably require. A Unit Owner who has obtained his title by gift, devise or inheritance shall give to the Association notice of the acquiring of his title, together with such personal information as the Association may reasonably require, and a certified copy of the instrument evidencing his title.

#### 17. COMPLIANCE AND DEFAULT

(a) Each Unit Owner shall be governed by and shall comply with the terms of this Declaration, by the Articles of Incorporation, By-laws, and regulations adopted pursuant thereto, and by such documents and regulations as they may be amended from time to time. A default shall entitle the Association or other Unit Owners to the relief described in sub-paragraph (b) of this paragraph in addition to the remedies provided by the Unit Ownership Act.

(b) A Unit Owner shall be liable for the expense of any maintenance, repair, or replacement rendered necessary by his act, neglect, or carelessness or by that of any member of his family or his or their guests, employees, agents, or lessees, but only to the extent that such expense is not met by the proceeds

of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy, or abandonment of a Unit or its appurtenances. In any proceeding arising because of an alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be awarded by the Court.

(c) The failure of the Association or any Unit Owner to endorse any covenant, restriction, or other provision of the Unit Ownership Act, this Declaration, the Articles of Incorporation, the By-laws, or the regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

#### 18. AMENDMENTS

This Declaration may be amended in the following manner:

(a) By the undersigned prior to the sale of any of the Units above described.

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

(c) A resolution adopting a proposed amendment may be proposed by either the Board of Directors of the Association or by the members of the Association. Directors and members not present in person or by proxy at the meetings considering the amendment may express their approval in writing, provided, such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, such approvals must be either by (i) not less than seventy-five percent (75%) of the entire membership of the Board of Directors, and not less than seventy-five percent (75%) of the votes of the entire membership of the Association; or (ii) not less than eighty percent (80%) of the votes of the entire membership of the Association; or (iii) until the first election of directors, only by all of the directors, provided, the amendment does not increase the number of Units nor alter the boundaries of the common elements.

(d) No amendment shall discriminate against any Unit Owner or against any Unit or class or group of Units unless the Unit Owners so affected shall consent. No amendment shall change any Unit nor the share in the common elements appurtenant to it nor increase the Owner's share of the common expenses, unless the record Owner of the Unit and all record Owners of liens thereon shall join in the execution of the amendment.

(e) A copy of each amendment shall be certified by the President and Secretary of the Association as having been duly adopted and shall be effective when recorded in the office of the Register of Deeds for Transylvania County, North Carolina.

19. TERMINATION

The Condominium may be terminated in the following manner in addition to the manner provided by the Unit Ownership Act.

(a) In the event that it is determined under paragraph 13(d) that a damaged or destroyed Condominium Building shall not be reconstructed because of major damage, the Condominium plan of Ownership will be thereby terminated as to that building without agreement.

(b) The Condominium may be terminated at any time by the approval in writing of all of the Owners of the Condominium and by all record owners of liens thereon. If the proposed termination is submitted to a meeting of the members of the Association, the notice of which meeting gives notice of the proposed termination, and if the approval of the Owners of not less than seventy-five percent (75%) of the common elements, and of the record owners of liens upon the same seventy-five percent (75%) of the common elements, is obtained not later than thirty (30) days from the date of such meeting, then the approving Owners shall have an option to buy all of the Units of the other Owners during the period ending on the sixtieth day from the date of such meeting.

(c) The option described in sub-paragraph (b) of this paragraph shall be exercised by delivery or mailing by registered mail to each of the record Owners of the Units to be purchased of an offer to purchase signed by the record Owners of Units who will participate in the purchase. Such offer shall indicate which Units will be purchased by each participating Owner and shall offer to purchase all of the Units owned by Owners not approving the termination, but the offer shall effect a separate contract between each seller and his purchaser.

(d) The sale price for each Unit shall be the fair market value determined by agreement between seller and purchaser within thirty (30) days from the delivery or mailing of such offer, and in the absence of agreement, by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two (2) appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the Unit; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any Court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser. The purchase price shall be paid in cash, and the sale shall be closed within ten (10) days following the determination of the sale price.

(e) The termination of the Condominium shall be evidenced by a certificate of the Association executed by the President and Secretary certifying as to the facts effecting the termination, which certificate shall become effective upon being recorded in

the office of the Register of Deeds for Transylvania County, North Carolina.

(f) After termination of the Condominium, the Unit Owners shall own the Condominium property and all assets of the Association as tenants in common in undivided shares, and their respective mortgagees and lienors shall have mortgages and liens upon the respective undivided shares of the Unit Owners. Such undivided shares of the Unit Owners shall be the same as the undivided shares in the common elements appurtenant to the Owners' Units prior to the termination.

20. WATER AND SEWER FACILITIES AND SERVICES

Developer shall provide and make available to Unit Owners water and sewer facilities and services. After installation such water facilities and services will be provided, maintained and managed under and pursuant to the terms and conditions of any contract which may be entered into by and between the Association and the owner of such facilities. Rights of way for the installation, maintenance, repair and replacement thereof on the land described in Article 1 hereof are hereby reserved for the use and benefit of Developers, their successors and assigns.

21. SEVERABILITY

The invalidity, in whole or in part, of any covenant or restriction, or any section, sub-section, sentence, clause, phrase or word, or other provision of this Declaration and the Articles of Incorporation, By-laws and regulations of the Association shall not affect the validity of the remaining portions thereof.

22. APPOINTMENT OF PROCESS AGENT

In accordance with the provisions of G. S. 47A-13-(7), RAYMOND L. GIBBS is hereby designated as the person to receive service of process. The address of the said Process Agent is

1830 ASHEVILLE HIGHWAY  
Hendersonville, North Carolina 28739

In the event of her death, resignation or removal, her successor shall be appointed by the Board of Directors of the Association as provided in Article XI of the By-laws thereof.

23. SPECIAL PROVISIONS PERTAINING TO DEVELOPER.

1. The Developer of the Condominium to be managed by Waterford Place Condominium Association Eleven is Waterford Place Partnership, herein called Developer. It is understood and agreed by each of the members of the Association that Developer is planning to develop additional family units on tracts of land adjacent to or near the tract covered by the Declaration of Condominium. In order to provide uniformity of management and to

reduce the cost to owners of family units a separate Waterford Place Property Owners Association may be created and enlarged from time to time to include representatives from Waterford Place Condominium Association Eleven, the additional Condominium Units established by Developer within the area, and the owners of all lots in the development. Upon such additions each Condominium shall have one director on the Board of the separate Association. The addition of these members to the separate Association shall be conditioned upon their adoption of By-laws similar to these By-laws, and the maintenance costs of each additional Condominium shall be kept separate and the assessments shall be taxed against Unit Owners only in relation to the costs and expenses and in accordance with the percentages applicable to the Condominium in which his Unit is located, and the common areas and facilities which are pertinent thereto. For so long as Developer owns not less than two Units in the area it shall have the right to elect at least two members of the Board of Directors of the separate Association. Directors elected by Developer pursuant hereto need not be residents of the Condominium.

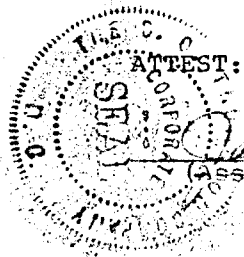
2. Notwithstanding anything else in these By-laws or in the Declaration of Condominium, this Article of the By-laws cannot be amended without the consent of the Developer.

IN WITNESS WHEREOF, the Developer has executed this Declaration and the partners have executed the same individually in order to ratify and confirm the submission of the foregoing described property to the Unit Ownership Act hereinabove referred to, the day and year first above written.

WATERFORD PLACE PARTNERSHIP

THE D. O. THOMPSON COMPANY,  
GENERAL PARTNER

By: J. O. Thompson, Jr.  
(Vice) President



Janie Morgan  
(Assistant) Secretary

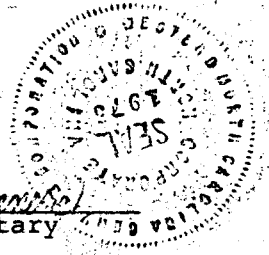
WESTERN NORTH CAROLINA SERVICE CORPORATION, GENERAL PARTNER

By: Rubie Young  
(Vice) President

12 24

ATTEST:

Carolyn A. Swanner  
(Assistant) Secretary



STATE OF NORTH CAROLINA,  
COUNTY OF Wenderson.

This is to certify that on the 13<sup>th</sup> day of December, 1984, before me personally came D. O. Thompson Jr., (Vice) President, with whom I am personally acquainted, who, being by me duly sworn, says that he is the (Vice) President, and James Morgan is the (Assistant) Secretary of D. O. THOMPSON COMPANY, the corporation described in and which executed the foregoing instrument; that he knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal, and the name of the corporation was subscribed thereto by the said (Vice) President, and that said (Vice) President and (Assistant) Secretary subscribed their names thereto, and said common seal was affixed, all by order of the Board of Directors of said corporation, and that the said instrument is the act and deed of said corporation.

WITNESS my hand and Notarial Seal, this the 13<sup>th</sup> day of December, 1984.

Rhonda L. Hargis  
Notary Public

My commission expires:  
\_\_\_\_\_.

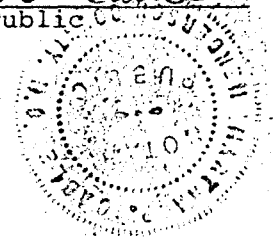
STATE OF NORTH CAROLINA,  
COUNTY OF Wenderson.

This is to certify that on the 14<sup>th</sup> day of December, 1984, before me personally came Robbie S. Young, (Vice) President, with whom I am personally acquainted, who, being by me duly sworn, says that he is the (Vice) President, and Carolyn N. Swanner is the (Assistant) Secretary of WESTERN NORTH CAROLINA SERVICE CORPORATION, the corporation described in and which executed the foregoing instrument; that he knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal, and the name of the corporation was subscribed thereto by the said (Vice) President, and that said (Vice) President and (Assistant) Secretary subscribed their names thereto, and said common seal was affixed, all by order of the Board of Directors of said corporation, and that the said instrument is the act and deed of said corporation.



WITNESS my hand and Notarial Seal, this the 14th day of December, 1984.

Martha P. Cable  
Notary Public



My commission expires:

March 29, 1987

STATE OF NORTH CAROLINA,  
COUNTY OF TRANSYLVANIA.

The foregoing certificates of Martha P. Cable  
and Rhonda K. Hughes, Notary (ies) Public, are  
certified to be correct. This instrument was presented for  
registration and was duly recorded in this office in Book 5,  
Page 1, Records of Deeds.

This the 18 day of Dec, 1984, at 200 o'clock  
P.M.

Fred H. Israel  
Register of Deeds

By: \_\_\_\_\_  
Deputy Register of Deeds

26

EXHIBIT "A"

FOR ORIGINAL SURVEY SEE PLAT RECORDED IN  
PLAT FILE 2, SLIDE 349, IN THE OFFICE OF  
THE REGISTER OF DEEDS FOR TRANSYLVANIA  
COUNTY, NORTH CAROLINA.

27

EXHIBIT "B"

FOR EXHIBIT "B" SEE COPIES OF PLANS AND SPECIFICATIONS IN PLAT FILE 2, SLIDE 349A IN THE OFFICE OF THE REGISTER OF DEEDS FOR TRANSYLVANIA COUNTY, NORTH CAROLINA, together with the Certificate of Phillip B. Ramsey, Professional Engineer, dated December 13, 1984 attached hereto, a copy of which is include with the Plans and Specifications.

STATE OF NORTH CAROLINA,  
COUNTY OF HENDERSON.

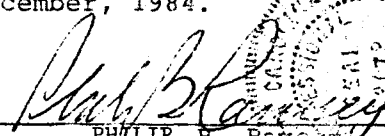
PHILIP B. RAMSEY, being first duly sworn, deposes and says that he is a Professional Engineer of the State of North Carolina.

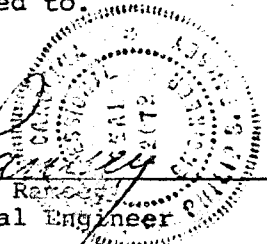
That the attached plans are full and exact copies of the plans of Waterford Place Condominium No. Eleven of Waterford Place Partnership which were used in the construction of said Buildings; that said plans show graphically all particulars of the Buildings, including, but not limited to, the layout, location, ceiling and floor elevation, Unit numbers and dimensions of the Units, the name of the Buildings, the area and location of the common areas and facilities affording access to each Unit.

That the said plans are accurate copies of the portions of the plans of the Buildings as filed with and approved by the governmental subdivision having jurisdiction over the issuance of permits for the construction of buildings.

That said building has been completed substantially in accordance with the plans hereinabove referred to.

This the 13<sup>th</sup> day of December, 1984.

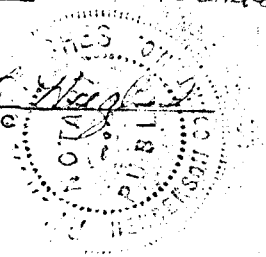
  
PHILIP B. RAMSEY  
Professional Engineer



29

Subscribed and sworn to before me, this the 13<sup>th</sup> day of December, 1984.

Shonda L. Hight  
Notary Public



My commission expires:

Sept. 29, 1986

EXHIBIT "C"

30

BY-LAWS  
OF  
WATERFORD PLACE CONDOMINIUM ASSOCIATION ELEVEN

---

ARTICLE I

NAME and LOCATION

Section 1. The name of this Association shall be WATERFORD PLACE CONDOMINIUM ASSOCIATION ELEVEN.

Section 2. Its principal office shall be located at:

Waterford Place Clubhouse  
710 Lake View Court  
Brevard, North Carolina 28712

and its mailing address shall be:

Waterford Place Clubhouse  
710 Lake View Court  
Brevard, North Carolina 28712

Section 3. The Corporation shall have a seal on which there shall be inscribed in the outer circle the words, "WATERFORD PLACE CONDOMINIUM ASSOCIATION ELEVEN", and inscribed in the inner circle the words, "Corporate Seal" - North Carolina, 1984.

ARTICLE II

MEMBERSHIP

The members of this Association shall be the Unit Owners of WATERFORD PLACE CONDOMINIUM ASSOCIATION ELEVEN, and purchase of a Unit in said Condominium shall automatically make the Owner thereof a member upon recordation of the deed therefor.

ARTICLE III

MEMBERS' MEETING

Section 1. The annual members' meeting shall be held in the office of the Association at 10:00 o'clock A. M. on the second Tuesday of July of each year for the purpose of electing directors and transacting any other business authorized to be transacted by the members. If that day is a legal holiday, the meeting shall be held the same hour on the next day.

Section 2. Special members' meetings shall be held whenever called by the President or Vice-President or by a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from members entitled to cast one-third of the votes of the entire membership.

Section 3. Notice of all members' meetings, stating the time and place and the objects for which the meeting is called, shall be given by the President or Vice-President or Secretary unless waived in writing. Such notice shall be in writing to each member at his address as it appears on the books of the Association and shall be mailed not less than ten (10) days nor more than sixty (60) days prior to the date of the meeting. Proof of such mailing shall be given by the affidavit of the person giving the notice. Notice of meeting may be waived before or after meetings.

Section 4. A quorum at members' meetings shall consist of persons entitled to cast a majority of the votes of the entire membership. If any meeting of the members cannot be organized because a quorum has not attended, the members who are present, whether in person or by proxy, may adjourn the meeting for at least ten (10) days, and adequate notice of the new date shall be given as described in Section (3) of this Article.

Section 5. Voting shall be on a percentage basis and the percentage of the vote to which the Owner is entitled is the percentage assigned to the Unit or Units in Declaration of Unit Ownership.

Section 6. As used in these by-laws, the term "majority of Owners" shall mean those Owners holding 51 per cent of the votes in accordance with the percentage assigned in the Declaration of Unit Ownership.

Section 7. If a Unit is owned by one person his right to vote shall be established by the record title to his Unit. If a Unit is owned by more than one person, or is under lease, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by all of the record owners of the Unit and filed with the Secretary of the Association. If a Unit is owned by a corporation, the person entitled to cast the vote for the Unit shall be designated by a certificate of appointment signed by the President or Vice-President and attested by the Secretary or Assistant Secretary of the Corporation and filed with the Secretary of the Association. Such certificate shall be valid until revoked, or until superseded by a subsequent certificate, or until a change in the ownership of the Unit concerned. A certificate designating the person entitled to cast the vote of a Unit may be revoked by any Owner thereof.

Section 8. Votes may be cast in person or by proxy. Proxies may be made by any person entitled to vote. They shall be valid only for the particular meeting designated and must be filed with the Secretary before the appointed time of the meeting.

Section 9. The President, or, in his absence the Vice-President, shall preside at all such meetings.

Section 10. The Secretary of the Association shall serve as Secretary of all such meetings and shall keep the minute book wherein the resolutions adopted and other items transacted at such meetings shall be recorded.

Section 11. The order of business at annual members' meetings, and as far as practical at all other members' meetings shall be:

- (a) election of Chairman of the meeting if necessitated by the absence of the President or Vice-President;
- (b) calling of the roll and certifying of proxies;
- (c) proof of notice of meeting or waiver of notice;
- (d) reading and disposal of any unapproved minutes;
- (e) reports of officers;
- (f) reports of committees;
- (g) election of directors (if necessary);
- (h) unfinished business;
- (i) new business; and
- (j) adjournment.

Section 12. Until the Developer of the Condominium (herein called the Developer) has completed and sold all of the units of the condominium, or until the Developer elects to terminate its control of the condominium, whichever shall first occur, there shall be no meeting of members of the Association unless a meeting is called by the Board of Directors.

#### ARTICLE IV

#### DIRECTORS

Section 1. The affairs of this association shall be managed by a Board of three (3) Directors elected by the members at their annual meeting, who shall hold office for one (1) year and until their successors are elected and qualified. Each member of the Board of Directors shall be either the Owner of a Unit, have an interest therein, or in the event of corporate ownership, be an owner or designated agent of the Corporation.

Section 2. Except as to vacancies provided by removal of directors by members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by the remaining directors.



Section 3. Any director may be removed by concurrence of two-thirds of the votes of the entire membership at a special meeting of the members called for that purpose. The vacancy in the Board of Directors so created shall be filled by the members of the Association at the same meeting.

Section 4. Until the Developer has completed and sold all of the Units of the Condominium, or until the Developer elects to terminate its control of the Condominium, whichever shall first occur, the first directors of the Association shall serve; and in the event of vacancies the remaining directors shall fill the vacancies, and if there are no remaining directors the vacancies shall be filled by the Developer.

Section 5. The organization meeting of a newly elected Board of Directors shall be held within ten (10) days of its election at such place and time as shall be fixed by the directors at the meeting at which they are elected; and no further notice of the organization meeting shall be necessary, provided a quorum shall be present.

Section 6. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the directors. Notice of regular meetings shall be given to each director, personally or by mail, telephone, or telegraph at least three (3) days prior to the day named for such meeting.

Section 7. Special meetings of the directors may be called by the President and must be called by the Secretary at the written request of one-third of the directors. Notice of the meeting shall be given personally or by mail, telephone or telegraph at least three days prior to the day named for such meeting, which notice shall state the time, place and purpose of the meeting.

Section 8. Any director may waive notice of a meeting before or after the meeting and such waiver shall be deemed equivalent to the giving of notice.

Section 9. A quorum at directors' meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except where approval by a greater number of directors is required by the Declaration of Unit Ownership, herein called the Declaration, Articles of Incorporation, or these By-Laws. If at any meeting the Board of Directors less than a quorum is present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business which might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such director for the purpose of determining a quorum.

Section 10. The presiding officer of directors' meetings shall be the President. In the absence of the presiding officer the directors present shall designate one of their number to preside.

Section 11. The order of business at directors' meetings shall be:

- (a) calling of roll;
- (b) proof of due notice of meeting;
- (c) reading and disposal of any unapproved minutes;
- (d) reports of officers and committees;
- (e) election of officers;
- (f) unfinished business;
- (g) new business; and
- (h) adjournment.

#### ARTICLE V

##### POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. All of the powers and duties of the Association existing under the Condominium Act, The Declaration, the Articles of Incorporation, and these By-Laws shall be exercised exclusively by the Board of Directors, its agents, contractors, or employees, subject only to approval by Unit Owners when such is specifically required. Compensation of employees of the Association shall be fixed by the directors. A director may be an employee of the Association and a contract for management of the Condominium may be entered into with a director.

Section 2. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law or these by-laws directed to be exercised and done by the Unit Owners.

Section 3. In addition to the duties imposed by these by-laws or the resolutions of the Association, the Board of Directors shall be responsible for the following:

- (a) maintenance, repair, care, upkeep and surveillance of the project and the common areas and facilities;
- (b) collection of monthly assessments from the Owners;
- (c) designation and dismissal of the personnel necessary for the maintenance and operation of the project and the common areas and facilities.

Section 4. The Board of Directors may employ for the Association a Management Agent at a compensation established by the Board to perform such duties and services as the Board shall authorize, including but not limited to the duties listed in Section 3 of this Article.

Section 5. The Board of Directors may adopt, amend or rescind administrative rules and regulations governing the details of the operation and use of the common areas and facilities at any regular or special meeting called and held in accordance with the provisions of Article IV of the By-Laws. Notice thereof shall be given to each Unit Owner within thirty (30) days of such adoption, amendment or rescinding in the manner provided for notice of members' meetings in Section 3 of Article III of these by-laws.

Section 6. The Board of Directors shall require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds. The premiums of such bonds shall be paid by the Association.

ARTICLE VI

OFFICERS

Section 1. The principal officers of the Association shall be a President, a Vice-President, a Secretary, and a Treasurer, all of whom shall be elected by and from the Board of Directors. The directors may appoint an Assistant Treasurer and an Assistant Secretary and such other officers as in their judgment may be necessary, who need not be Directors.

Section 2. The officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board and shall hold office for one year or until their successors are elected and qualified.

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

Section 4. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board of Directors. He shall have all of the general powers and duties which are usually vested in the office of President of an association, including but not limited to the power to appoint committees from among the Owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association.

Section 5. The Vice-President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the

Vice-President is able to act, the Board of Directors shall appoint some other member of the Board to do so on an interim basis. The Vice-President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors.

Section 6. The Secretary shall keep the minutes of all meetings of said Board of Directors and the minutes of all meetings of the Association. He shall have charge of such books and papers as the Board of Directors may direct, and he shall, in general, perform all the duties incident to the office of Secretary.

Section 7. The Treasurer shall have responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit, of the Association, in such depositories as may from time to time be designated by the Board of Directors.

#### ARTICLE VII

##### OBLIGATION OF THE OWNERS

Section 1. All Owners are obligated to pay in advance assessments imposed by the Association to meet all project and communal expenses, which in any event shall include a liability insurance policy premium and an insurance premium for a policy to cover repair and reconstruction work in case of hurricane, fire, earthquake or other hazard. The assessments shall be made prorata according to the value of the Unit owned, as stipulated in the Declaration of Unit Ownership. Such assessments may also include monthly payments to the following reserve funds if levied by the Association:

(a) A reserve fund for the purpose of effecting replacements of structural elements and mechanical equipment of the Condominium, and for such other purposes as may from time to time appear to be necessary or appropriate.

(b) A general operating reserve for the purpose of providing a measure of financial stability during periods of special stress, which may be used to meet deficiencies from time to time as a result of delinquent payment of assessments by Owners of Family Units in the Condominium and other contingencies.

Section 2. The obligations of the Owners as to maintenance and repair are as follows:

(a) Every Owner must perform promptly all maintenance and repair work within his own Unit, which if omitted would affect the project in its entirety or in a part belonging to other

Owners, being expressly responsible for the damages and liabilities that his failure to do so may engender.

(b) All the repairs of internal installations of the Unit such as water, light, gas, power, sewage, heating units, telephones, air conditioners, sanitary installations, doors, windows, lamps and all other accessories belonging to the unit area shall be at the Owner's expense.

(c) An Owner shall reimburse the Association for any expenditure incurred in repairing or replacing any common area and facility damaged through his fault.

Section 3. All Units shall be utilized for residential purposes only.

Section 4. An Owner shall not make structural modifications or alterations within his Unit without previously notifying the Association in writing, through the Management Agent, if any, or through the President of the Board of Directors if no Management Agent is employed. The Association shall have the obligation to answer within thirty (30) days and failure to do so within the stipulated time shall mean that there is no objection to the proposed modification or alteration.

Section 5. An Owner shall not place or cause to be placed in the lobbies, vestibules, stairways and other project areas and facilities of a similar nature which are common areas or limited common areas and facilities, any furniture, packages, or objects of any kind. Such areas shall be used for no other purpose than for normal transit through them, or other normal use.

Section 6. All Family Units shall be subject to the following rights of entry:

(a) An Owner shall grant the right of entry to the Management Agent or to any other person authorized by the Board of Directors of the Association in case of any emergency originating in or threatening his Unit, whether the Owner is present at the time or not.

(b) An Owner shall permit other Owners, or their representatives, when so required, to enter his Unit for the purpose of performing installations, alterations or repairs to the mechanical or electrical services, provided, that requests for entry are made in advance and that such entry is at a time convenient to the Owner. In case of an emergency, such right of entry shall be immediate.

#### ARTICLE VIII

##### BUDGET

Section 1. The Board of Directors shall adopt a budget for each calendar year which shall include the estimated funds

required to defray common expenses and to provide funds for the accounts listed in Article VIII of these by-laws. The budget shall take into account the following items:

(a) "Current expense," the amount for which shall not exceed 110 per cent of the budget for this account for the prior year after 1984.

(b) "Reserved for deferred maintenance," the amount for which shall not exceed 110 per cent of the budget for this account for the prior year after 1984.

(c) "Operations," the amount of which may be to provide a working fund or to meet losses.

(d) "Additional improvements," the amount for which shall be approved by vote of at least 75 per cent of the Unit Owners.

The amount for each budgeted item may be increased over the foregoing limitations when approved by Unit Owners entitled to cast not less than 75 per cent of the votes of the entire membership of the Association. Until the Developer has completed and sold all of the Units of the Condominium, or until the Developer elects to terminate its control of the Condominiums, whichever shall first occur, the Board of Directors may omit from the budget all allowances for contingencies and reserves. Copies of the budget and proposed assessments shall be transmitted to each member on or before December 1st preceding the year for which the budget is made. If the budget is subsequently amended, a copy of the amended budget shall be furnished to each member.

#### ARTICLE IX

#### ASSESSMENTS

Section 1. The Unit Owners are bound to contribute prorata, in the percentages computed according to Section 47A-6 of the General Statutes of North Carolina, and as set forth in Article 6 of the Declaration, toward the expenses of administration and of maintenance and repairs of the general common areas and facilities, of the building and toward any other expense lawfully agreed upon. No Unit Owner may exempt himself from contributing toward such expense by waiver of the use or enjoyment of the common areas or limited common areas and facilities or by abandonment of the Unit belonging to him.

Section 2. Assessments against the Unit Owners for their shares of the items of the budget shall be made on or before December 20th preceding the year for which the assessments are made. Such assessments shall be due in four equal payments on the first day of January, April, July and October of the year for which the assessments are made. If an annual assessment is not made as required, an assessment shall be presumed to have been made in the amount of the last prior assessment. In the event the annual assessment proves to be insufficient, the budget and

assessments therefor may be amended at any time by the Board of Directors if the items of the amended budget do not exceed the limitations thereon for that year. Any item which does exceed such limitation shall be subject to the approval of the membership of the Association as provided in Article VIII of these by-laws. The unpaid assessment for the remaining portion of the calendar year for which the amended assessment is made shall be due upon the date of the assessment.

Section 3. If a Unit Owner shall be in default in the payment of an installment upon an assessment, the Board of Directors may accelerate the remaining installments of the assessment upon notice thereof to the Unit Owner, and thereupon the unpaid balance of the assessment shall come due upon the date stated in the notice, but not less than ten (10) days after delivery thereof to the Unit Owner, or not less than twenty (20) days after the mailing of such notice to him by registered or certified mail, whichever shall first occur.

Section 4. Assessments for common expenses or emergencies which cannot be paid from the annual assessments for common expenses shall be made only after notice of the need therefor to the Unit Owners concerned. After such notice and upon approval in writing by persons entitled to cast more than one-half of the votes of the Unit Owners concerned, the assessment shall become effective, and it shall be due after thirty days notice thereof in such manner as the Board of Directors may require.

Section 5. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the Directors.

Section 6. Assessments made pursuant to the provisions of this Article shall become a lien upon the individual Units and be collectable as provided by Chapter 47A of the General Statutes of North Carolina, which is incorporated herein by reference.

Section 7. All present or future Owners, tenants, future tenants, or their employees, or any other person who might use the facilities of WATERFORD PLACE CONDOMINIUM ASSOCIATION ELEVEN in any manner, are subject to the regulations set forth in these by-laws and to rules and regulations adopted pursuant hereto.

Section 8. The mere acquisition of any of the Family Units of the said Condominium, or the mere act of occupancy of any of said Units shall signify that these by-laws and the provisions of rules and regulations adopted pursuant hereto are accepted, ratified and will be complied with.

Section 9. Every resident of the project shall observe as rules of conduct, the rules and regulations which are attached hereto and incorporated herein by reference. Either the Board of

Directors or the Owners, at a regular meeting or duly called special meeting, may modify, alter, amend, add to or revoke said rules and regulations in whole or in part.

#### ARTICLE X

##### CONVEYANCES

The sale or leasing of Units in the Condominium shall be subject to the following provisions:

A Unit Owner making a sale or lease of his Unit or any interest therein shall give to the Association notice of such sale or lease, together with the name and address of the purchaser or lessee, and such other information concerning the intended purchaser or lessee as the Association may reasonably require. A Unit Owner who has obtained his title by gift, devise or inheritance shall give to the Association notice of the acquiring of his title, together with such personal information as the Association may reasonably require, and a certified copy of the instrument evidencing his title.

#### ARTICLE XI

##### AMENDMENTS TO PLAN OF UNIT OWNERSHIP

Section 1. These by-laws may be amended by the Association in a duly constituted meeting for such purpose and no amendment shall take effect unless approved by the owners representing at least sixty (60) per cent of the total value of all Units in the project as shown in the Declaration of Unit Ownership. All Unit Owners shall be bound to abide by any amendment upon the same being passed and duly set forth in an amended Declaration of Unit Ownership, duly recorded. Until the Developer has sold all of the Units of the Condominium, or until the Developer elects to terminate its control of the Condominium, whichever shall first occur, amendments to these by-laws shall be by majority vote of the Board of Directors. No such amendment shall become operative unless set forth in an amended Declaration of Unit Ownership and duly recorded.

Section 2. No future amendment to the by-laws of this Association shall be retroactive to the extent that any mortgage or deed of trust executed on any Unit shall be in any way affected thereby unless the lending institution, or the holder of the note secured by said mortgage or deed of trust, agrees in writing to the terms of such amendment.

#### ARTICLE XII

##### MORTGAGEES

Section 1. An Owner who mortgages his Unit, or places a deed of trust or any other encumbrance thereon, shall notify the Association through the Management Agent, if any, or the



President of the Board of Directors in the event there is no Management Agent, of the name and address of such mortgagee or lien holder, and the Association shall maintain such information in a book called "Mortgagees of Units."

Section 2. The Association shall at the request of a mortgagee or lienholder of a Unit report any unpaid assessments due from the Owner of such Unit.

#### ARTICLE XIII

##### AGENT FOR SERVICE OF PROCESS

The Board of Directors shall at all times maintain a duly appointed process agent within Transylvania County, North Carolina, as required by G. S. 47A-26. The Board of Directors by majority action may at any time revoke the appointment of any such agent, and appoint a successor, by an instrument duly recorded in the office of the Register of Deeds for Transylvania County. To comply with the requirements of this Article, Arlet Jorgensen, Waterford Place Clubhouse, Brevard, North Carolina 28712, is hereby appointed Process Agent for the Association.

#### ARTICLE XIV

##### COMPLIANCE

These by-laws are set forth to comply with the requirements of Chapter 47A of the General Statutes of North Carolina. In case any of these by-laws conflict with the provisions of said chapter, it is hereby agreed and accepted that the provisions of the Chapter will apply.

#### ARTICLE XV

##### TITLE TO REAL ESTATE ACQUIRED BY THE ASSOCIATION

In the event the Association shall purchase or otherwise acquire the legal title to any Family Unit, such title shall be vested in the Association as Trustee for each of the remaining owners in the percentages established in the Declaration of Unit Ownership.

#### ARTICLE XVI

##### SPECIAL PROVISIONS PERTAINING TO DEVELOPER

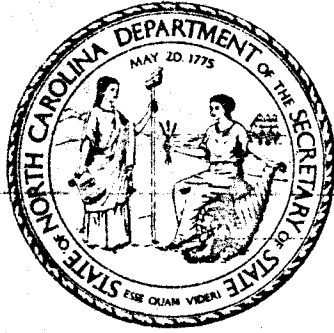
Section 1. The Developer of the Condominium to be managed by Waterford Place Condominium Association Eleven is Waterford Place Partnership a General Partnership consisting of The D. O. Thompson Company and Western North Carolina Service Corporation, herein called Developer. It is understood and agreed by each of the members of the Association that Developer is planning to develop additional Family Units on tracts of land adjacent to or

near the tract covered by the Declaration of Unit Ownership. In order to provide uniformity of management and to reduce the cost to Owners of Units a separate Waterford Place Condominium Unit Ownership Association may be created and enlarged from time to time to include representatives from Waterford Place Condominium Association Eleven, and the additional Condominium Units established by Developer within the area. Upon such additions each Condominium shall have one director on the Board of the separate Association. The addition of these members to the separate Association shall be conditioned upon their adoption of by-laws similar to these by-laws, and the maintenance costs of each additional condominium shall be kept separate, and the assessments shall be taxed against each Unit Owner only in relation to the costs and expenses, and in accordance with the percentages applicable to the Condominium in which his Unit is located, and the common areas and facilities appurtenant thereto. For so long as Developer owns not less than two Units in the area it shall have the right to elect at least two members of the Board of Directors of the separate Association. Directors elected by Developer pursuant hereto need not be residents of the Condominium.

Section 2. Notwithstanding anything else in these by-laws or in the Declaration of Unit Ownership, this Article of the by-laws cannot be amended without the consent of Developer.

7-644

**State of  
North  
Carolina**



**Department  
of the  
Secretary of State**  
43

**To all to whom these presents shall come, Greeting:**

*I, Thad Eure, Secretary of State of the State of North Carolina, do hereby certify the following and hereto attached ( 3 sheets) to be a true copy of*

ARTICLES OF INCORPORATION

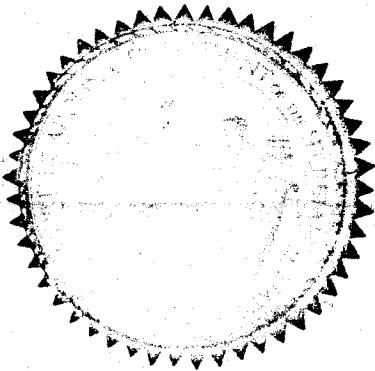
OF

WATERFORD PLACE CONDOMINIUM ASSOCIATION ELEVEN

*and the probates thereon, the original of which was filed in this office on the 18th day of December 19 84, after having been found to conform to law.*

*In Witness Whereof, I have hereunto set my hand and affixed my official seal.*

*Done in Office, at Raleigh, this 18th day of December in the year of our Lord 19 84.*



*Thad Eure*  
Secretary of State  
*[Signature]*  
By  
Deputy Secretary of State

THE  
ARTICLES OF INCORPORATION  
OF  
WATERFORD PLACE CONDOMINIUM ASSOCIATION ELEVEN

\* \* \* \* \*

The undersigned, being of the age of eighteen (18) years or more, does make and acknowledge these Articles of Incorporation for the purpose of forming a non-profit corporation under and by virtue of the laws of the State of North Carolina.

I

NAME

The name of the Corporation is WATERFORD PLACE CONDOMINIUM ASSOCIATION ELEVEN.

II

DURATION

The period of duration of the Corporation shall be perpetual.

III

PURPOSES

The purpose for which this Corporation is organized is to provide an entity pursuant to the provisions of Chapter 47-A of the General Statutes of North Carolina known as the Unit Ownership Act for the operation of WATERFORD PLACE CONDOMINIUM ELEVEN, a condominium, located upon the lands of the said Corporation at Brevard, North Carolina.

IV

MEMBERSHIP

The Corporation shall have members who shall be owners of

units in the said WATERFORD PLACE CONDOMINIUM ELEVEN. All members shall be accepted, elected, or designated, in the manner provided for in the by-laws.

## V

## DIRECTORS

The directors of the Corporation shall be elected by the members in the manner provided for in the by-laws.

## VI

## EARNINGS OF THE CORPORATION

No part of the net earnings of the Corporation shall inure to the benefit of any officer, director or member of the Corporation; and upon dissolution of the Corporation, the assets thereof shall, after all of its liabilities and obligations have been discharged or adequate provision made therefor, be distributed to any association or associations organized for purposes similar to those set forth in Article III hereinabove, or as more particularly provided for in the by-laws of the Corporation.

## VII

## REGISTERED OFFICE

The address of the initial registered office of the Corporation is Waterford Place Clubhouse, Brevard, Transylvania County, North Carolina, and the name of the initial registered agent at such address is Carole W. Merrill.

## VIII

## NUMBER OF DIRECTORS

The number of directors constituting the initial Board of Directors shall be three (3), and the names and addresses of the

persons who are to serve as the initial directors are:

<u>NAME</u>	<u>ADDRESS</u>
D. O. Thompson, Jr.	322 South King Street Hendersonville, NC 28739
Phillip B. Ramsey	322 South King Street Hendersonville, NC 28739
Raymond L. Gibbs	322 South King Street Hendersonville, NC 28739

IX

The name and address of the incorporator is:

<u>NAME</u>	<u>ADDRESS</u>
John K. Smart, Jr.	1 North Gaston Street The Legal Building Brevard, NC 28712

IN WITNESS WHEREOF, I have hereunto set my hand,  
this 5<sup>th</sup> day of December, 1984.

John K. Smart, Jr.

STATE OF NORTH CAROLINA,  
COUNTY OF TRANSYLVANIA.

I, Tressa Garner, a Notary Public in and for said County and State, do hereby certify that JOHN K. SMART, JR. personally appeared before me this day and acknowledged the due execution by him as incorporator of the foregoing articles of incorporation for Waterford Place Condominium Association Eleven for the purposes therein set forth.

WITNESS my hand and Notarial Seal, this the 5th day of December, 1984.

Tressa Garner  
Notary Public

My commission expires:

February 28, 1989.

## EXHIBIT "E"

STATE OF NORTH CAROLINA,  
COUNTY OF TRANSYLVANIA.

THIS CONTRACT, made and entered into this the \_\_\_\_\_ day of \_\_\_\_\_, 1984, by and between WATERFORD PLACE ASSOCIATION ELEVEN, a North Carolina non-profit corporation, party of the first part, hereinafter called "Association", and WATERFORD PLACE PARTNERSHIP, party of the second part, hereinafter called "Manager",

## W I T N E S S E T H:

THAT WHEREAS, Association has been formed to administer the operation and management of the Condominiums described in the Declaration of Unit Ownership to which this Management Agreement is attached, said Condominium being hereinafter referred to in this agreement as the, "Condominium" or "Condominium Property," and all references hereinafter contained to a "Unit" or "Units" mean the Condominium Units; and

WHEREAS, orderly and uniform administration, appearance, upkeep and management of the Condominium facilities known as Waterford Place Condominium Eleven are so necessary and essential for the preservation and promotion of the communal nature of said Condominium, the protection of economic values thereof, including the value of the property thereon and the convenience and well being of the residents of said Condominium as to require the employment of a Manager; and

WHEREAS, the Manager is desirous of furnishing such management services:

NOW, THEREFORE, in consideration of the foregoing premises, the promises and covenants herein made, and the sum of Ten Dollars each to the other in hand paid, receipt of which is hereby acknowledged, it is agreed as follows:

1. Employment. The Association does hereby employ the Manager as the exclusive Manager of the Condominium property and its facilities, and the Manager does hereby accept such employment.

2. Term. The term of this Agreement shall commence as of the day of December, 1984, and shall terminate either on the last day of December, 1985, or on the date that Association comes under the control of its Unit Owners by their election of the Association's Board of Directors, whichever shall first occur, unless sooner terminated as hereinafter set forth.

3. Powers of Manager. The Manager, to the exclusion of all persons, including the Association and its members, shall have all the power and duties of the Association as set forth in its Articles, By-laws, Declaration of Unit Ownership, and Chapter 47-A of the General Statutes of North Carolina, except such thereof as are specifically required to be exercised by its Directors or Members.

4. Duties of Manager. To maintain, repair, replace, service, insure and provide for all of the common and limited areas and facilities of Waterford Place Condominium Eleven to the same extent that the Association is required to provide, maintain and repair the same, as provided in said Condominium's Declaration of Unit Ownership and the Exhibits attached thereto, including, but not limited to, the following:

(a) The foundations, columns, girders, beams, supports, main walls, roof, lobbies, fire escapes and entrances and exits of the Condominium Buildings;

(b) The yards, gardens, and storage spaces.

(c) Installations of central services such as power, lights, gas, water and sewer system.

(d) All apparatus and installations existing for common use.

(e) Television antennas and leads into the individual Units.

(f) Driveways and parking areas.

(g) Outside lights.

(h) Fire and extended coverage in at least the sum of ONE HUNDRED SEVENTY-FIVE THOUSAND AND NO/100 Dollars (\$175,000.00) per Building.

(i) Public liability insurance in at least the sum of FIVE HUNDRED THOUSAND AND NO/100 Dollars (\$500,000.00).

(j) Sewer system, including septic tanks and pipe lines.

(k) Electricity for outside lights and all other common facilities requiring power.

5. Manager's compensation. Association shall pay to Manager for such management services the sum of \$20.00 per month.

6. Installment Payments. The payments provided for in the preceding paragraph No. 5 shall be paid in advance in quarterly installments on January 10th, April 10th, July 10th and October 10th of each year during the term hereof. Receipt is hereby acknowledged of the payment of the October 10th installment from the date hereof to the 10th day of January, 1985.

It is understood and agreed that in the event any payment herein provided for is not made promptly as the same becomes due, and shall remain in default for a period of thirty (30) days, the party of the first part may terminate this contract at its option and shall not be obligated to perform any further duties hereunder, without prejudice to its right to recover for any services theretofore performed hereunder.

7. It is understood and agreed that the payment provided for in paragraph No. 5 herein is an estimate only. In the event that the amount included therein is insufficient to meet the requirements thereof, then this contract may be revised at the end of the first full calendar year of the term hereof to increase said amounts to such sum as may be needed to meet such requirements, provided, that the total amount of any such increases may not exceed an increase of twenty per cent (20%) per month per individually owned Unit. The term "calendar year" shall mean a year beginning on January 1st and ending on December 31st



8. Units. This Agreement does not contemplate nor is the Manager responsible for or required to perform the upkeep or repair of the Units; the responsibility for which, under its By-Laws and the Declaration of Unit Ownership, is that of the Owner of a Unit. However, the Manager may, in its absolute discretion, perform such maintenance and repair services of a Unit as are required by an Owner thereof as an accommodation to the Association or to such Owner and charge such Owner, who shall have requested said services of the Manager, a reasonable charge therefor.

9. Interference. The Association shall not permit, allow or cause any of its officers, directors and members to interfere with the Manager in the performance of its duties or the exercise of any of its powers hereunder.

10. Manager's Liability. The Manager shall not be liable to the Association and its members for any loss or damage not caused by the Manager's own gross negligence or willful misconduct.

11. Assessments. Assessments shall be made by Association annually in accordance with the Declaration of Unit Ownership, by-laws and the provisions of Chapter 47-A of the General Statutes of North Carolina, to meet the costs of this Agreement, and the Association shall collect and pay the same to Manager in accordance herewith.

12. Parking. The Association hereby delegates to Manager the power to assign and change assignments of specific parking space to its members, and to otherwise regulate vehicular parking of all manner and type of vehicles and storage of non-vehicular personalty within the common facilities area and within the property of the Condominium specified in the Declaration of Unit Ownership, or not to permit such storage within the common facilities area and within the Condominium property, as the Manager deems advisable.

13. Renewal. This Agreement may be renewed upon such terms and conditions as are mutually agreeable to the Association and the Manager. The Board of Directors of the Association shall be authorized to enter into such Renewal Agreement with the Manager on behalf of its members upon the approval of a majority of said members at a meeting of the said Association at which a quorum is present and which meeting is called in accordance with the said Association's By-laws. The Renewal Agreement shall be recorded in the office of the Register of Deeds for Transylvania County, North Carolina.

14. Termination. This contract may be terminated at the end of any calendar year by either party thereto giving to the other party hereto written notice of its intention to terminate the same not later than December 1st of the calendar year of the intended termination. Such notice may be delivered in person or sent by United States mail, certified, with return receipt requested, at the addresses following, or such other addresses as may be subsequently give to each other by the parties hereto:

WATERFORD PLACE ASSOCIATION ELEVEN  
Waterford Place Clubhouse  
Brevard, North Carolina - 28712

WATERFORD PLACE PARTNERSHIP  
1830 Asheville Highway  
Hendersonville, North Carolina 28739

15. Parts, captions and Titles. The Parts, Captions and Titles contained in this Agreement are for convenience and reference only, and in no way define, limit or describe the scope or intent of this Agreement or any part thereof, nor in any way affect this Agreement.

16. Parties. This Agreement is binding upon the parties hereto and their successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in their corporate names by their respective Presidents and their corporate seals to be hereto affixed and attested by their respective Secretaries, all by order of their respective Boards of Directors duly given, this the day and year first above written.

WATERFORD PLACE ASSOCIATION ELEVEN

By: \_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

WATERFORD PLACE PARTNERSHIP

THE D. O. THOMPSON COMPANY,  
General Partner

By: \_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

WESTERN NORTH CAROLINA SERVICE  
CORPORATION, General Partner

By: \_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

EXHIBIT "F"  
RULES AND REGULATIONS  
OF  
WATERFORD PLACE CONDOMINIUM ELEVEN

1. The sidewalks, entrances and passages must not be obstructed or encumbered or used for any purpose other than ingress and egress to and from the premises.
2. No sign, advertisement, notice or other lettering shall be exhibited, inscribed, painted or affixed by a Unit Owner on any part of the outside of the Condominium premises or building without the prior written consent of the Association.
3. No awnings or other projections shall be attached to the outside walls of the buildings and no blinds, shades or screens shall be attached to or hung in, or used in connection with, any window or door of the demised premises, without the prior written consent of the Association.
4. No baby carriages, velocipedes or bicycles shall be allowed to stand in the common areas of the Condominium.
5. All garbage and refuse must be placed in containers with tops closed.
6. Servants and domestic help of the Unit Owners may not gather or lounge in the public areas of the buildings or grounds, except that such help serving as governess, nurse or baby sitter may accompany children to the recreation areas.
7. The Association may retain a pass key to the premises. No Unit Owner shall later any lock or install a new lock or a knocker on any of the premises without the written consent of the Association or the Association's agent. In case such consent is given, the Unit Owner shall provide the Association with an additional key for the use of the Association pursuant to the right of access to the Unit Premises.
8. No Unit Owner shall allow anything whatever to fall from the window or doors of the premises, nor sweep or throw from the premises any dirt or other substance into any of the other portions of the buildings or upon the grounds.
9. Nothing shall be hung from the windows, or balconies, or placed upon the window sills. Neither shall anylinens, cloths, clothing, curtains, rugs or mops be shaken or hung from any of the windows or doors. No fire exits shall be obstructed in any manner. Clothes shall only be hung for drying in places designated by the Association.
10. No Unit Owner shall make or permit any disturbing noises in the building by himself, his family, servants, employees, agents, visitors or licensees, nor do or permit anything by such persons that will interfere with the rights, comforts, or convenience of other Unit Owners. No Unit Owner shall play upon, or suffer to be played upon, any musical instrument or operate or suffer to be operated a phonograph, television set or radio in his Unit between the hours of eleven o'clock P.M. and the following eight o'clock A.M., if the same shall disturb or annoy other occupants of the building. No Unit Owner shall conduct or permit to be conducted, vocal or instrumental practice, nor give nor permit to be given vocal or instrumental instruction at any time.

52

11. No radio or television aerial shall be installed without the written consent of the Association. Any aerial erected on the roof or exterior walls of the building without the consent of the Association, in writing, is liable to removal without notice.

12. No dogs, cats, or other pets shall be allowed to run at large in the common areas of the Condominium, and the Association reserves the right to make rules and regulations with respect to the keeping of pets on the premises.

13. No Unit Owner shall allow any insecticide or other pollutant to flow into any stream adjoining the property, nor shall he block the flow of any stream or drainage area without the consent of Waterford Place Condominium Eleven.

I do hereby certify that the foregoing is a true and exact copy of the Rules and Regulations of Waterford Place Condominium Ten, which were duly adopted at the first meeting of the directors thereof, and that the same have not been amended, altered or rescinded and are still in full force and effect.

This the \_\_\_\_\_ day of \_\_\_\_\_, 1984.

\_\_\_\_\_  
Secretary, WATERFORD PLACE CONDOMINIUM  
ELEVEN

## EXHIBIT "G"

STATE OF NORTH CAROLINA,  
COUNTY OF TRANSYLVANIA.

THIS DEED, made this \_\_\_\_\_ day of \_\_\_\_\_, 198\_\_\_\_, by WATERFORD PLACE PARTNERSHIP, a N. C. partnership consisting of THE D. O. THOMPSON COMPANY and WESTERN NORTH CAROLINA SERVICE CORPORATION, party of the first part, to

\_\_\_\_\_ party of the second part (said designations shall include the respective parties, their heirs, successors and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context);

## W I T N E S S E T H :

That the party of the first part, for and in consideration of the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) to it paid by the party of the second part, the receipt of which is hereby acknowledged, has given, granted, bargained, sold and conveyed and by these presents does give, grant, bargain, sell and convey and confirm unto the party of the second part, their heirs and assigns, subject to the limitations, easements and reservations set out below, the following particularly described real estate, situate, lying and being in Brevard Township, Transylvania County, North Carolina, to-wit:

Being Condominium Unit No. \_\_\_\_\_ in Building No. \_\_\_\_\_ of Waterford Place Condominium Eleven as described in the Declaration of Unit Ownership thereof filed in the office of the Register of Deeds for Transylvania County, North Carolina, on \_\_\_\_\_, 1984, and recorded in Condominium Book \_\_\_\_\_ Page \_\_\_\_\_, all exhibits attached thereto and all amendments thereto, reference to which is hereby made for a more complete description thereof.

Together with an undivided \_\_\_\_\_ per cent interest in the common areas and facilities of said Waterford Place Condominium Eleven, as set forth in the Declaration of Unit Ownership thereof hereinabove referred to.

TO HAVE AND TO HOLD the above described land and premises, with all appurtenances thereto belonging, or in anywise appertaining unto the party of the second part, their heirs and assigns, forever, subject to the reservations, easements, conditions and limitations set out below.

The property hereinabove described shall be used only for the purposes set forth in the Declaration of Unit Ownership of Waterford Place Condominium Eleven hereinabove referred to all exhibits attached thereto, and all amendments thereto.

This conveyance is made subject to the following:

- 1. County real estate taxes for the year 198\_\_\_\_\_.
- 2. The terms and conditions of the Declaration of Unit Ownership described above, all exhibits attached thereto, and all amendments thereto.
- 3. Conditions, restrictions, limitations and easements of record.
- 4. Party of the second part, by the acceptance of this deed, agrees that this Unit shall be subject to the obligations and duly enacted by-laws and rules of the Waterford Place Property Owners Association and further agrees that he, his heirs and assigns shall be members of the same.

The party of the first part covenants to and with the party of the second part, their heirs and assigns, that it is lawfully seized in fee simple of said land and premises, and has full right and power to convey the same to the party of the second part in fee simple, and that said land and premises are free from any and all encumbrances, except as set forth above, and that it will, and its successors shall, forever warrant and defend the title to the said land and premises, with the appurtenances, unto the party of the second part, their heirs and assigns, against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the party of the first part has caused these presents to be executed in its name by its General Partners, this the day and year first above written.

WATERFORD PLACE PARTNERSHIP,  
THE D. O. THOMPSON COMPANY,  
GENERAL PARTNER

By: \_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

WESTERN NORTH CAROLINA SERVICE  
CORPORATION, GENERAL PARTNER

By: \_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

STATE OF NORTH CAROLINA,  
COUNTY OF TRANSYLVANIA.

This is to certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me personally came \_\_\_\_\_ (Vice) President, with whom I am personally acquainted, who, being by me duly sworn, says that he is the (Vice) President, and \_\_\_\_\_ is the (Assistant) Secretary of THE D. O. THOMPSON COMPANY, the corporation described in and which executed the foregoing instrument; that he knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal, and the name of the corporation was subscribed thereto by the said (Vice) President, and that said (Vice) President and (Assistant) Secretary subscribed their names thereto, and said common seal was affixed, all by order of the Board of Directors of said corporation, and that the said instrument is the act and deed of said corporation.

WITNESS my hand and Notarial Seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

STATE OF NORTH CAROLINA,  
COUNTY OF TRANSYLVANIA.

This is to certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me personally came \_\_\_\_\_ (Vice) President, with whom I am personally acquainted, who, being by me duly sworn, says that he is the (Vice) President, and \_\_\_\_\_ is the (Assistant) Secretary of WESTERN NORTH CAROLINA SERVICE CORPORATION, the corporation described in and which executed the foregoing instrument; that he knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal, and the name of the corporation was subscribed thereto by the said (Vice) President, and that said (Vice) President and (Assistant) Secretary subscribed their names thereto, and said common seal was affixed, all by order of the Board of Directors of said corporation, and that the said instrument is the act and deed of said corporation.

WITNESS my hand and Notarial Seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

STATE OF NORTH CAROLINA,  
COUNTY OF TRANSYLVANIA.

The foregoing certificates of \_\_\_\_\_, Notary (ies) Public, are certified to be correct. This instrument was presented for registration and was duly recorded in this office in Book \_\_\_\_\_, Page \_\_\_\_\_, Records of Deeds.

This the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ .M.

\_\_\_\_\_  
Register of Deeds

By:

\_\_\_\_\_  
Deputy Register of Deeds



EXHIBIT "H"

STATE OF NORTH CAROLINA,  
COUNTY OF TRANSYLVANIA.

THIS CONTRACT, made and entered into, this \_\_\_\_\_ day of \_\_\_\_\_, 1984, by and between WATERFORD PLACE PARTNERSHIP, hereinafter called Owner, party of the first part, and WATERFORD PLACE CONDOMINIUM ASSOCIATION ELEVEN, hereinafter called Association, party of the second part,

W I T N E S S E T H:

THAT WHEREAS, Owner is the developer of Waterford Place Partnership at Brevard, North Carolina; and

WHEREAS, Association is the entity organized to manage and administer said Condominium for the benefit of the Unit Owners thereof; and

WHEREAS, Owner is the owner of the water and sewer system supplying water and sewer facilities to said Condominium; and

WHEREAS, the parties hereto desire to contract to and with each other for Owner to provide and make available to Unit Owners in Waterford Place Condominium Eleven water and sewer facilities and services.

NOW, THEREFORE, the parties hereto do hereby contract to and with each other as follows:

1. Owner shall provide and make available to Unit Owners in Waterford Place Condominium Eleven water and sewer facilities and services upon the following terms and conditions:

(a) Owner shall provide water and sewer facilities and services to the entrance tap at the Condominium building serviced by Association and maintain such water and sewer facilities including the well, pumphouse and distribution lines and sewage treatment plant and sewer lines at its expense to such point.

(b) Association shall pay to the Owner the sum of eighteen Dollars (\$18.00) per month per completed and individually owned Unit for water and sewer facilities and services by Owner. Such payment shall be made in advance in quarterly installments on the 10th day of each January, April, July and October during the term of this contract beginning on the first day of July, 1984.

2. This contract shall begin as of the date hereof, and unless sooner terminated as herein provided, shall exist and continue until the 31st day of December 1994. Upon the termination hereof the contract shall automatically be extended for terms of one year each, unless either party hereto gives written notice to the other by certified mail at its last known address of its intention to terminate the same.

3. Owner shall have the right to assign this contract, provided, however, that no action on the part of Owner, its successors and assigns, shall have the effect of releasing it or them of the obligation to provide and make available to the Unit Owners of Waterford Place Condominium Eleven water and sewer facilities and services as herein set forth, and until twelve (12) months written notice prior to the termination hereof or of any extended terms of its intention to cease furnishing such facilities and services.

4. It is expressly agreed that if any quarterly payment as herein called for remains over due and unpaid for thirty (30) days, Owner may at its option, at any time during such default, declare this contract terminated and cease providing and furnishing water and sewer facilities and services hereunder, without prejudice to its right to proceed against Association as provided by law and its breach hereof.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in their respective names by their respective Presidents and their respective corporate seals to be hereto affixed and attested by their respective Secretaries, all by order of their respective Boards of Directors duly given, this the day and year first above written.

WATERFORD PLACE PARTNERSHIP  
THE D. O. THOMPSON COMPANY

By: \_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
(Assistant) Secretary

WESTERN NORTH CAROLINA SERVICE CORPORATION

By: \_\_\_\_\_  
(Vice) President

ATTEST:

\_\_\_\_\_  
(Assistant) Secretary

WATERFORD PLACE CONDOMINIUM  
ASSOCIATION ELEVEN

By: \_\_\_\_\_  
(Vice) President

ATTEST:

\_\_\_\_\_  
(Assistant) Secretary

STATE OF NORTH CAROLINA,  
COUNTY OF TRANSYLVANIA.

This is to certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 1984, before me personally came \_\_\_\_\_, (Vice) President, with whom I am personally acquainted, who, being by me duly sworn, says that he is the (Vice) President, and \_\_\_\_\_ is the (Assistant) Secretary of THE D. O. THOMPSON COMPANY, the corporation described in and which executed the foregoing instrument; that he knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal, and the name of the corporation was subscribed thereto by the said President, and that said (Vice) President and (Assistant) Secretary subscribed their names thereto, and said common seal was affixed, all by order of the Board of Directors of said corporation, and that the said instrument is the act and deed of said corporation.

WITNESS my hand and Notarial Seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 1984.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

STATE OF NORTH CAROLINA,  
COUNTY OF HAYWOOD.

This is to certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 1984, before me personally came \_\_\_\_\_, (Vice) President, with whom I am personally acquainted, who, being by me duly sworn, says that he is the (Vice) President, and \_\_\_\_\_ is the (Assistant) Secretary of WESTERN NORTH CAROLINA SERVICE CORPORATION, the corporation described in and which executed the foregoing instrument; that he knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal, and the name of the corporation was subscribed thereto by the said (Vice) President, and that said (Vice) President and (Assistant)

Secretary subscribed their names thereto, and said common seal was affixed, all by order of the Board of Directors of said corporation, and that the said instrument is the act and deed of said corporation.

WITNESS my hand and Notarial Seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 1984.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

STATE OF NORTH CAROLINA,  
COUNTY OF TRANSYLVANIA.

This is to certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me personally came \_\_\_\_\_, (Vice) President, with whom I am personally acquainted, who, being by me duly sworn, says that he is the (Vice) President, and \_\_\_\_\_ is the (Assistant) Secretary of WATERFORD PLACE CONDOMINIUM ASSOCIATION ELEVEN, the corporation described in and which executed the foregoing instrument; that he knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal, and the name of the corporation was subscribed thereto by the said (Vice) President, and that said (Vice) President and (Assistant) Secretary subscribed their names thereto, and said common seal was affixed, all by order of the Board of Directors of said corporation, and that the said instrument is the act and deed of said corporation.

WITNESS my hand and Notarial Seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 1984.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.