CONTENTS

MW2017

? EXHIBIT "C" missing - BY-LAWS - per pg 2101 - ART XVI.3

STATE OF NORTH CAROLINA

COUNTY OF POLK

65 Pages

DECLARATION CREATING UNIT OWNERSHIP AND ESTABLISHING RESTRICTIONS, COVENANTS, AND CONDITIONS FOR ONE TRYON PLACE

THIS DECLARATION and the exhibits which are attached hereto and made a part hereof by this reference, are made and executed this 25th day of June, 1982, by B.L. DeBORD, of the County of Polk and State of North Carolina, hereinafter called the "DECLARANT," for himself, his grantees, successors and assigns, pursuant to the provisions of the North Carolina Unit Ownership Act.

W I T N E S S E T H :

WHEREAS, the Declarant is the owner of a certain real property in Polk County, North Carolina, more particularly described and defined in Exhibit A, attached hereto and made a part hereof; and

WHEREAS, the Declarant desires to submit by this Declaration certain portions of the property described on Exhibit A to the provisions of the Unit Ownership Act of North Carolina, North Carolina General Statutes Chapter 47A, as amended, (hereinafter referred to as the "ACT"), thereby creating a condominium known as ONE TRYON PLACE, thereafter reserving the right to add the balance, or certain portions of the balance, of the property described in Exhibit A to such condonimium; and

WHEREAS, the Declarant is the owner of a certain multi-unit building and certain other improvements heretofore constructed on the property described on Exhibit B, and it is the desire and intention of the Declarant to divide the property into condominium units as those terms are defined under the provisions of the North Carolina Unit Ownership Act, and to sell and to convey the same to various purchasers subject to the covenants, conditions, obligations, and restrictions herein reserved to be kept and observed;

NOW, THEREFORE, the Declarant does hereby publish and declare that all of the property described in the attached Exhibit B, identified as Phase I,

*Association Copy

2062

and all that property described in Supplementary Declarations hereafter recorded as herein provided and made subject to this Declaration is held, and shall be held, conveyed, hypothecated, encumbered, used, occupied, and improved subject to the following restrictions, covenants, conditions, uses, limitations, and obligations, all of which are declared and agreed to be in furtherance of the plan for the improvement of such property and the division thereof into condominium units, and shall be deemed to run with the land and shall be a burden and benefit to the Declarant, his grantees, successors and assigns, and any person acquiring and owning an interest in the real property and improvements, their grantees, successors, heirs, administrators, devisees, and assigns. Every grantee of any interest in such property by the acceptance of a deed or other conveyance of such interest, whether or not such deed or other conveyance of such interest shall be signed by the grantee or whether or not such person shall otherwise consent in writing, shall take subject to provisions of North Carolina Unit Ownership Act, and this Declaration or Supplementary Declarations, and shall be deemed to have assented to the same.

ARTICLE I.

STATUTORY PROVISIONS AND DEFINITIONS

1. Statutory Provisions. This DECLARATION is made pursuant to Chapter 47A of the North Carolina General Statutes, as amended, in effect as of the time of recording of this DECLARATION.

2. Definitions. Unless defined herein, or unless the context requires otherwise, the words defined in Section 3 of the Act, when used in this DECLARATION or any amendment hereto, shall have the meaning provided therein. The following words, when used in this DECLARATION or any Supplement or amendment hereto, unless the context requires otherwise, shall have the following meaning:

   (a) "Act" means the Unit Ownership Act of North Carolina, North Carolina General Statute Chapter 47A, as amended.

   (b) "Assessment" means an owner's share of the common expenses assessed against such owner and his unit from time to time by the Regime in the manner hereinafter provided.

2063

(c) "Board" or "Board of Directors" means the Board of Directors of ONE TRYON PLACE condominium regime created hereunder and "Director" or "Directors" means a member or members of the Board.

(d) "By-Laws" means the By-Laws for the administration of the condominium regime contained in Exhibit C, attached hereto and made a part hereof by this reference.

(e) "Common Areas and Facilities" or "Common Area" means all of the condominium property and every part thereof, excluding the units, but including Limited Common Areas and Facilities.

(f) "Common Expenses" means all or any of:

(1) All expenses incident to the administration, maintenance, and repair or replacement of the Common Areas and Facilities and the Limited Common Areas and Facilities;

(2) Expenses determined by the Regime to be common expenses and which are lawfully assessed against the Unit Owners;

(3) Expenses declared to be common expenses by the Unit Ownership Act or the Condominium Documents;

(4) All sums lawfully assessed against the Unit Owners, by the Regime.

(g) "Condominium Documents" means and includes this DECLARATION, BY-LAWS attached as Exhibit C, and RULES AND REGULATIONS as may be created pursuant to ARTICLE VI., Section 10., hereof, governing the use of the condominium property, and Supplementary Declarations adding property to the condominium, all as may be amended from time to time.

(h) "Condominium Property" or "Property" means all of the property submitted to the Unit Ownership Act by this DECLARATION or by Supplementary Declarations, being the property described in Exhibit A of this DECLARATION, or so much thereof as shall be submitted from time to time; the buildings and all other improvements situated thereon whether the same be common areas and facilities or units or any part thereof, and all easements and rights appurtenant thereto.

2064

(i) "Declarant" means B.L. DeBORD, himself, his grantees, successors and assigns, in fee ownership of all remaining units (more than one unit) unsold to purchasers for use as residences. At no point in time may there be more than one "Declarant."

(j) "DECLARATION" means this DECLARATION CREATING UNIT OWNERSHIP AND ESTABLISHING COVENANTS, CONDITIONS, AND RESTRICTIONS FOR ONE TRYON PLACE.

(k) "Limited Common Areas and Facilities" or "Limited Common Area" means those areas so designated on the Plans attached hereto and incorporated herein by this reference.

(l) "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. All percentage interests stated herein for voting purposes means the owners of that percent of the Common Areas and Facilities, as determined by the percentage interest stated in this DECLARATION.

(m) "Member" means a Unit Owner.

(n) "Mortgage" means any deed of trust, mortgage, security agreement and financing statement or any and all other similar instruments given to secure the payment of a debt, by granting a security interest in a unit, its fixtures or contents.

(o) "Mortgagee" means any secured party under a security agreement or mortgage, and the beneficiary under or a holder of a deed of trust.

(p) "Percentage Interest" means the percentage of undivided interest each owner owns in the Common Areas and Facilities as set forth in Section 2. of ARTICLE XIV. of this DECLARATION.

(q) "Person" means any individual, corporation, partnership, association, trustee, fiduciary, or other legal entity, and shall mean the plural or combination of the same where applicable.

2065

(r) "Phase I" means a part of the land described in Exhibit A and all of the lands described in Exhibit B hereto identified as "Phase I," which is the land and improvements submitted to the Act by this DECLARATION. "Phase II," "Phase III," "Phase IV," "Phase V," "Phase VI," and "Parking Area" are tracts of land that make up the balance of the lands described in Exhibit A, being fully described and identified in Exhibit B hereof, which may be included within ONE TRYON PLACE condominium by Supplementary Declaration in the manner hereinafter provided, and the boundaries of which are shown on Sheet 1 of the Plans.

(s) "Plans" means the site plan by Wolfe & Huskey, Inc., Engineering and Surveying, and the plans of the buildings and units by Albert B. Jolly, Jr., AIA, entitled, "ONE TRYON PLACE PROPERTIES - Floor Plans" and "ONE TRYON PLACE PROPERTIES - as Built Elevations and Section," and unit plans by Anton Cedervall, AIA, untitled, referred to in ARTICLE III. of this DECLARATION, and attached to this DECLARATION as Exhibit D.

(t) "Regime," "Condominium Regime" or "Condominium Association" means that incorporated association of Unit Owners, limited to and consisting of all owners of condominium units of ONE TRYON PLACE including Declarant.

(u) "Supplementary Declaration" means the document filed by Declarant to include one or more of Phases II, III, IV, V, and VI and the Parking Area within the Condominium Property, in the manner provided hereinafter.

(v) "Unit" means those parts of the condominium property described in Section 3. of ARTICLE III. hereof which are subject to this DECLARATION from time to time and which are shown and designated on the Plans as units.

(w) "Unit Owner" means the record legal fee owner or owners of a unit, excluding any lender, trustee, or creditor whose interest in the unit is merely as security for the performance of an obligation.

2066

ARTICLE II.

NAME, ADDRESS, AND REGISTERED AGENT

1. Name and Address. The name of the property is ONE TRYON PLACE and it is located adjacent to and on the north side of Jervey Road, Tryon, North Carolina.

2. Registered Agent. William H. Miller, 216 Pacolet Street, Tryon, North Carolina 28782, hereby is designated to receive service of process in any action which may be brought against or in relation to the Condominium. In the event of such agent's death, resignation, or removal, his successor/successors shall be appointed by the Board of Directors, and shall so indicate by recording an instrument to that effect with the Register of Deeds of Polk County, North Carolina.

ARTICLE III.

PROPERTY RIGHTS

1. Description of Land. It is the intent of Declarant to create hereby what is referred to as an "expandable condominium," with the maximum land that may be included in this DECLARATION being that tract lying and being in the Town of Tryon, Polk County, North Carolina, and more fully described in Exhibit A, together with rights, easements and appurtenances thereunto belonging and subject to those matters affecting title fully set out in Exhibit B-1. The property which hereby is submitted to the Act by this DECLARATION is the land on which the buildings and improvements are located in the Town of Tryon, Polk County, North Carolina, more fully described in Exhibit B, identified as Phase I, attached hereto and made a part hereof, together with rights, easements and appurtenances thereunto belonging. By Supplementary Declaration, in the manner hereinafter provided, Declarant may from time to time add one or more of the tracts identified as Phases II, III, IV, V, VI and Parking Area described in Exhibit B and subject such land and buildings and improvements thereon to this DECLARATION, and thereafter such land therein described shall be and become subject to the Act and this DECLARATION as if included from the beginning.

2067

By acceptance of a deed to a condominium unit created hereby or by Supplementary Declaration, each unit owner agrees that such additional Phases and the Units therein may be added to the condominium property and that the percentage interest of Common Elements will be reduced as set out in ARTICLE XIV. hereof.

2. Description of Buildings.

A. Buildings 1, 2, 4, 7, 8 and 10 each shall be two-stories and each shall contain four (4) condominium units.

(a) Units A and B of each building are defined as Second Floor Units.

(i) Units A and B of each building are further defined, described and identified as being bounded in the horizontal plane by the unfinished sub-floor material which forms the floor of each unit and by the unfinished ceiling material forming the ceiling of each unit.

(ii) Units A and B of each building are bounded in the vertical plane by the unfinished interior surfaces of the exterior or perimeter walls of each unit, and by the unfinished interior surface of the common wall which is located between the living areas of Units A and B.

(b) Units C and D of each building are defined as Ground Floor Units.

(i) Units C and D of each building are further defined, described and identified as being bounded in the horizontal plane by the surface of the unfinished concrete slab floor of each of said units, and by the top of the unfinished ceiling of each unit.

(ii) Units C and D of each building are bounded in the vertical plane by the unfinished exterior surface of the exterior or perimeter wall of each unit and by the unfinished interior surface of the common wall which is located between the living areas of Units C and D.

B. Building 9 shall be a two-story building and shall contain two (2) units.

(a) Unit A of Building 9 is defined as the Second Floor Unit.

(i) Unit A of Building 9 is further defined, described and identified as being bounded in the horizontal plane by the unfinished sub-floor material which forms the floor of the unit and by the unfinished ceiling material forming the ceiling of the unit.

(ii) Unit A of Building 9 is bounded in the vertical plane by the unfinished interior surface of the exterior or

2068

perimeter walls of the unit and by the unfinished interior surface of the common wall which is located between other units or buildings.

(b) Unit C of Building 9 is defined as the Ground Floor Unit.

(i) Unit C of Building 9 is further defined, described and identified as being bounded in the horizontal plane by the surface of the unfinished concrete slab floor of the unit, and by the top of the unfinished ceiling of the unit.

(ii) Unit C of Building 9 is bounded in the vertical plane by the unfinished interior surface of the exterior or perimeter walls of the unit and by the unfinished interior surface of the common wall which is located between the other units or buildings.

C. Building 3 shall be one-story and shall contain two (2) units.

(a) Unit A and Unit B of the building are defined as the Ground Floor Units.

(i) Unit A and Unit B of the building are further defined, described and identified as being bounded in the horizontal plane by the unfinished sub-floor material which forms the ground floor of each unit and by the top of the unfinished ceiling of each unit.

(ii) Unit A and Unit B of the building are bounded in the vertical plane by the unfinished interior surface of the exterior or perimeter walls of the unit and by the unfinished interior surface of the common wall which is located between Unit 3A and Unit 3B.

D. Any conflict in description contained in this Section 2 of ARTICLE III shall be governed by the description set forth in Section 3 of ARTICLE III.

E. Phase I of ONE TRYON PLACE shall contain one multi-unit building. The building is designated by the numbers: 7A, 7B, 7C and 7D on the plans attached hereto as Exhibit D and made a part of this description by reference. Unit 7A in this multi-unit building is a typical Plan W; Unit 7B in this multi-unit building is a typical Plan X; Unit 7C in this multi-unit building is a typical Plan Y; Unit 7D in this multi-unit building is a typical Plan Z; and the multi-unit building is two stories in height and has no basement. The building is descirbed graphically in the plans of said building, a copy of which is attached as Exhibit D. The balance of the property may contain up to seven (7) multi-unit buildings, three (3) of which (Phase II), if constructed, will contain four (4) type W units, four (4) type Y units, one (1) type U unit and one (1) type V unit; one of which (Phase III), if constructed, will contain one (1) type W unit and one (1) type X unit; one of which (Phase IV), if constructed, will contain one (1) type W unit, one (1) type X unit, one (1) type Y unit and one (1) type Z unit; one of which (Phase V), if constructed, will contain two (2) type W units and two (2) type Y units and one of which (Phase VI), if constructed, will contain two (2) type W units and two (2) type Y units. None will have basements. Each building is described graphically on the Plans of such buildings, a copy of which is attached as Exhibit D, that shows the particulars of each unit including the location, layout, number of rooms, dimensions, approximate area, building designation, unit numbers, and location of the common areas and facilities affording access to each unit.

3. Description of Units.

(a) Nature of Ownership. Every condominium unit, together with undivided interest in the Common Areas and Facilities, shall for all purposes be, and it is hereby declared to be and to constitute, a separate parcel of real estate and the unit owner thereof shall be entitled to the exclusive ownership and possession of his condominium unit, subject only to the covenants, restrictions and easements contained herein and the BY-LAWS, Rules and Regulations, resolutions and decisions adopted pursuant hereto and as may be contained in the accompanying BY-LAWS and the minutes of the Board of Directors of the Regime. The percentage undivided interest in the Common Areas and Facilities of each unit shall not be separate from the unit to which it appertains and shall be deemed to be conveyed or encumbered or released from liens with such unit even though such interest is not expressly mentioned or described in the conveyance or other instrument. A unit owner shall automatically become a member of the Regime, and shall remain a member thereof until such time as his ownership ceases for any reason, at which time his membership in the Regime shall automatically pass to his successor in interest. By acceptance of a deed of a unit, the unit owner agrees to abide by this DECLARATION, the BY-LAWS of ONE TRYON PLACE, and all duly adopted rules and regulations of the Regime and the Board.

2070

(b) Nature, Type, and Description of Unit. Each building in each Phase contains several units connected to one another by common walls or floors or ceilings. Each unit is designated on the PLANS attached hereto as Exhibit D, by a numerical designation. There are six basic floor plans or types of units, and such unit types are shown in detail in the Plans attached hereto as Exhibit D. The six (6) basic floor plans or types of units are:

Unit W which contains approximately 1468 square feet

Unit X which contains approximately 1993 square feet

Unit Y which contains approximately 1444 square feet

Unit Z which contains approximately 1900 square feet

Unit U which contains approximately 1500 square feet

Unit V which contains approximately 1620 square feet

These units may be on the ground level or on the second story level of a building over another such unit.

(c) Unit Dimensions. 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 or exterior of any and all doors, windows, sliding glass doors, and other closures. 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 part of a unit are the following:

(i) the heating and air conditioning systems serving the unit, wherever located;

(ii) the electrical wiring and service system, wherever located, from the service meter to the place where it connects with all uses within the unit;

?

(iii) the plumbing for water service from the last junction with a water line serving another unit to its end use in a unit; and

(iv) 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 ARTICLE XIV. hereof.

4. Common Areas and Facilities.

(a) Description. The general common areas and facilities consist 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 use 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 areas; and

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

2072

(b) Percentage Interest. The unit owners shall own the Common Areas and Facilities and the Limited Common Areas and Facilities as tenants in common, with each unit having appurtenant thereto the percentage interest in said Common Areas and Facilities and Limited Common Areas and Facilities as set forth in ARTICLE XIV. hereof; provided, however, the use of the Limited Common Areas and Facilities shall be restricted as set forth in Section 5. of this ARTICLE III. The percentage interest appurtenant to each unit has been determined as required by law and is based on estimated fair makret value as of the date of this DECLARATION. Such determination shall not restrict the Declarant, or any subsequent owner in establishing a sales price for any particular unit.

(c) Inseparability of Percentage Interest: The percentage interest in the Common Areas and Facilities and the Limited Common Areas and Facilities cannot be separated from the unit to which it appertains and shall automatically be conveyed or encumbered with the unit, even though such interest is not expressly mentioned or described in the deed or other instrument.

(d) No Partition. The Common Areas and Facilities and the Limited Common Areas and Facilities shall remain undivided and no right to partition the same or any part thereof shall exist except as provided in the Act, this DECLARATION, and the BY-LAWS. Nothing contained herein, however, shall be deemed to prevent ownership of a condominium unit by more than one person, either as tenants by the entireties, or as tenants in common, or in any other form by law permitted. Nothing contained herein, however, shall prevent the Board from creating additional Limited Common Areas and Facilities for a unit, as provided in Section 6. of this ARTICLE III.

(e) Use of Common Areas and Facilities. Each unit owner shall have the right to use the Common Areas and Facilities in accordance with the purposes for which they are intended without hindering the exercise of or encroaching upon the rights of other unit owners. The Board shall, if any question arises, determine the purpose for which a part of the Common Areas and Facilities is intended for use. The Board shall have the right to promulgate rules and regulations limiting the use of Common Areas and Facilities to unit owners

2073

and their guests. Any unit owner may delegate, in accordance with the provisions of this DECLARATION and the BY-LAWS and reasonable rules and regulations of the Board his right to use Common Areas and Facilities to the immediate members of his family living in the unit, to a limited number of guests, or to tenants who reside in his condominium unit.

5. Limited Common Areas and Facilities. Ownership of a unit shall entitle the owner thereof to the exclusive use or use with others necessarily served thereby of the Limited Common Areas and Facilities appurtenant to such unit and so designated in the PLANS. Limited Common Areas and Facilities shall not be construed or interpreted to be separate and apart from the Common Areas and Facilities in general, being limited only with respect to the reserved use thereof by the unit or units served. Limited Common Areas and Facilities shall include, if appropriate, all balconies, patios (concrete slabs), stairways and entrance areas, and any area designated on the PLANS as a Limited Common Area, or set out by the Board of Directors as Limited Common Area for a unit.

Exclusive use of the Limited Common Area may be delegated by an Owner to the immediate members of his family, his guests, or tenants who reside in his unit. Owners may place plants, furniture, or other similar items within the Limited Common Areas and Facilities adjacent or appurtenant to the unit, subject to reasonable rules and regulations duly adopted by the Board with respect thereto. No owner shall build or construct any type storage or workshop facility or other similar type of structure within the Limited Common Areas and Facilities unless prior approval is obtained from the Board of Directors.

6. Additional Limited Common Areas and Facilities. The Board shall have the right to approve, from time to time, changes in existing Limited Common Areas and Facilities, to approve additional or new Limited Common Areas and Facilities having a maximum of 150 square feet of ground space, for the exclusive use of the unit to which such Limited Common Areas and Facilities shall appertain; provided, that such additional Limited Common Areas and Facilities shall be immediately adjacent to the unit to which it shall appertain and shall extend no more than 15 feet from the unit to which it appertains.

2074

ARTICLE IV

RESTRICTIVE COVENANTS

1. Residential. Each of the units now constructed or to be constructed on the property shall be, and the same hereby are, restricted exclusively to single family residential use, and shall be occupied only by a single family, its servants, and guests. The provisions of this paragraph do not apply to property being used by the Regime as incidental to the operation and organization of the Regime.

2. Construction and Sale. Anything contained herein to the contrary notwithstanding, it shall be permissible for the Declarant to maintain during the period of construction and sale of units upon such portion of the property as Declarant may deem necessary, such facilities as in the sole discretion of the Declarant may be reasonably required, convenient, or incidental to the construction and sale of units, including, but without limitation, a business office, storage area, construction yard, signs, model units, and sales offices.

3. Business Activities. No business activities shall be conducted on any portion of the property, provided, however, the foregoing restrictions shall not apply to the Declarant as provided above; provided further, private offices may be maintained in a unit so long as such use is incidental to the primary residential use of the unit and is approved by the Board of Directors.

4. Alterations and Attachments by Unit Owner. No unit owner shall make structural alterations or modifications to his unit or to any of the Common Areas and Facilities, without the written approval of the Board of Directors. The Board of Directors shall not approve of any alterations, decorations, or modifications which would jeopardize or impair the soundness, safety, or overall appearance of the Condominium Property.

5. Motor Vehicles. No motor vehicles (other than private passenger vehicles), boat, boat trailer, mobile home, trailer, or any similar items shall be stored in or upon the Common Areas and Facilities, unless placed upon a portion of the Common Areas and Facilities which may be designated from time to time by the Board for the storage of such items.

2075

6. Signs. No signs or other advertising devises shall be displayed which are visible from the exterior of any unit or on the Common Areas and Facilities including "For Sale" signs, without written permission from the Board; except that the Declarant is exempt from this provision as provided above.

7. Prohibitions in Use of Common Areas and Facilities. Except on specific approval of the Board, the Common Areas and Facilities, including Limited Common Areas, shall not be used for temporary or permanent storage of supplies, personal property, trash, or refuse of any kind, except in trash receptacles, nor shall they be used in any way for the drying or airing of clothing, rugs, or other fabrics. Entrances, sidewalks, yards, driveways, parking areas, and stairways shall not be obstructed in any way. In general, no activities shall be carried on nor condition maintained by any unit owner either in his unit or upon the Common Areas and Facilities, if such activities should despoil, or tend to despoil, the appearance of the Condominium Property. It is expressly acknowledged and agreed by all parties concerned that this section is for the mutual benefit of all owners of the condominium property and is necessary for the protection of the unit owners and is enforceable by the Board or any one or more unit owners.

8. Animals. No animal shall be kept on the Condominium Property, except for small household pets. Such pets may not be kept or bred for any commercial purpose and shall have such care and restraint as is necessary to prevent them from being or becoming obnoxious or offensive on account of noise, odor, unsanitary conditions, or other nuisance. No savage or dangerous animal shall be kept or permitted on the Condominium Property. No more than two household pets may be housed within a unit without written permission of the Board. No pets may be permitted to run loose upon the Common Areas and Facilities, and any unit owner who causes or permits any animal to be brought or kept upon the Condominium Property shall indemnify and hold the Regime harmless for and from any loss, damage, or liability which it sustains as a result of the presence of such animal on the Condominium Porperty, regardless of whether the Regime or the Board has given its permission therefor.

2076

9. Access to Units. The Regime or its agent shall have access to each unit from time to time during reasonable working hours, upon oral or written notice to its owner, as may be necessary for the maintenance, repair, or replacement of any of the Common Areas and Facilities. The Regime or its agent shall also have access to each unit at all times without notice as may be necessary to make emergency repairs to prevent damage to Common Areas and Facilities or to another unit.

10. Subdividing. No unit may be divided or subdivided into smaller units, nor any portion thereof sold or otherwise transferred, without first amending the DECLARATION to show the changes in the units to be affected thereby; provided, that any amendment to this DECLARATION providing for the subdivision into smaller units must be approved by unit owners owning ninety percent (90%) of the percentage interest in the Common Areas and Facilities.

11. Nuisances. No nuisances shall be allowed upon the Condominium Property and no person shall engage in any use, practice, or activity upon such property which is noxious, offensive, or a source of annoyance to unit owners or which reasonably interfers with the peaceful possession and proper use of the property by any unit owner. All parts of the property shall be kept in a clean and sanitary condition; and no rubbish, refuse, or garbage shall be allowed to accumulate and no fire hazard shall be allowed to exist. Any unit owner (or his family, tenants, guest, or agents) who shall dump or place any trash or debris upon any portion of the property shall be liable to the Regime for the actual cost of removal thereof or the sum of $25.00 whichever is greater, and the same shall be added to and become a part of the assessment next coming due to which the unit owner is subject. No unit owner shall permit any use of his unit or make any use of the Common Areas and Facilities which will increase the rate of insurance upon the Condominium Property.

12. Lawful Use. No immoral, improper, or unlawful use shall be made of the Condominium Property nor any part thereof. All valid laws, zoning ordinances, and regulations of governmental bodies having jurisdiction thereof shall be observed.

13. Restriction on Transfer of Common Areas. The Regime shall not seek to abandon, partition, subdivide, encumber, sell or transfer any portion of the Common Areas and Facilities, without the written approval of owners and mortgagees of units totalling 75% of the percentage interest in the Common Areas and Facilities, and all of those having use of Limited Common Areas thereby affected. The granting of easements for public utilities or other public purposes consistent with the intended use of the Common Areas and Facilities shall not be deemed a transfer within the meaning of this paragraph.

14. Rules and Regulations. The Board may from time to time promulgate reasonable rules and regulations respecting the restrictive covenants set out in this ARTICLE IV, but such rules and regulations shall be consistent with these restrictions and not in derrogation or intended as an amendement thereto.

15. Leasing of Units. With the exception of a lender in possession of a condominium unit following a default in a first mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no unit owner shall be permitted to lease his unit for transient or hotel purposes. No unit owner may lease less than the entire unit. Any lease agreement shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of the DECLARATION and the BY-LAWS and that any failure by the lessee to comply with the terms of such documents shall be in default under the lease.

ARTICLE V.

EASEMENTS

1. Use and Enjoyment. Every unit owner, his family living in his unit, his tenants, and permitted guests, shall have a right and easement of use and enjoyment in and to the Common Areas and Facilities, except Limited Common Areas and Facilities, (including the right to access, ingress, and egress to and from his unit over those portions of the property designated for such purpose) and such easement shall be appurtenant to and shall pass with the title to every unit, subject to the following provisions:

2078

(a) The right of the Board of Directors to control the use and enjoyment thereof as provided in this Declaration, and in the duly-adopted Rules and Regulations of the Regime, which shall include, but not be limited to the right of the Board to limit use and enjoyment thereof to the unit owners, and their respective families living in the unit, tenants, and guests, as well as to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by a unit owner, his family, tenants, and guests;

(b) The right of the Board of Directors to limit the number of guests of unit owners; and

(c) The right of the Board to suspend the voting rights of a unit owner for any period of time during which an assessment against his unit remains unpaid or for infraction of its published Rules and Regulations.

2. Maintenance and Repair. There shall be an easement through the units and the Common Areas and Facilities for the installation, maintenance, repair and replacement of units and the Common Areas and Facilities. Use of this easement shall be only during normal business hours, except that access may be had at any time in the case of emergency.

3. Structural Support. Every portion of a unit or the Common Areas and Facilities which contributes to the structural support of another unit shall be burdened with an easement of structural support.

4. Encroachments. If any portion of the Common Areas and Facilities encroaches upon any unit or any unit encroaches upon any other unit or upon any portion of the Common Areas and Facilities or the Limited Common Areas and Facilities as a result of settling or shifting of a building, or as the result of survey error or error in description, an easement for the encroachment and for the maintenance of the same so long as the building stands, shall exist. If any building, any unit, any adjoining unit, or any adjoining part of the Common Areas and Facilities or the Limited Common Areas and Facilities, shall be partially or totally destroyed as a result of fire or other casualty or as a result of eminent domain proceedings, and then rebuilt upon the original site and upon the same Plans as the original building, encroachments of parts of the Common Areas and Facilities or the Limited Common Areas and Facilities upon any unit or of any unit upon any other unit or upon any portion of the Common Areas and Facilities or the Limited Common Areas and Facilities, due to such rebuilding, shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as the subject building shall stand.

2079

5. Utilities. There shall be a general easement upon, across, above and under all of the property for ingress, egress, installation, replacing, repairing, and maintaining all utilities including, but not limited to, water, sewer, telephone and electricity or other community service, (i.e., master television antenna system or security system, if installed) which the Declarant, or the Regime, has installed or might determine to install to serve the Property. By virtue of this easement, it shall be expressly permissible to erect and maintain the necessary poles and other necessary equipment on the property and to affix and maintain wires, conduits, cables, and the like on, above, across, under, and through the roofs and exterior walls of the units. Should any party furnishing any service covered by this general easement request a specific easement by separate recordable document, Declarant, or the Regime, as the case may be, shall have the right to grant such easement under the terms hereof.

6. Other. There shall be a general easement to the Regime, its directors, officers, agents, and employees (including, but not limited to, any manager employed by the Regime) to enter upon the property or any portion thereof in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to and with the permission of the unit owner directly affected thereby..

ARTICLE VI.

ADMINISTRATION

1. General Provisions. The administration of the Condominium Property, including, but not limited to, the acts required of the Regime, shall be performed by the Regime, by and through its Board, or as otherwise provided in this DECLARATION or the BY-LAWS. The membership of the Regime shall be limited to and consist of all of the condominium unit owners. The Regime's activities shall be limited to administration, including management and operation of ONE TRYON PLACE, consistent with the Act, this DECLARATION and the BY-LAWS.

2080

2. By-Laws. The BY-LAWS of the Regime are attached as Exhibit C hereto and by reference made a part hereof, subject however to Amendment as herein and in the Act and BY-LAWS provided.

3. Duties and Powers. The duties and powers of the Regime shall be those and shall be exercised as set forth in the Act, this DECLARATION and the BY-LAWS, together with those implied as reasonably necessary to effect the purposes of the Regime.

4. Agreements. All agreements and determinations lawfully authorized by the Board shall be binding upon all unit owners, their heirs, legal representatives successors, assigns, or others having an interest in the property or the privilege of possession and enjoyment of any part of the property. In furtherance of the foregoing and not in limitation thereof, the Board shall have the authority to authorize such management agreements as the Board of Directors shall deem necessary or desirable for the administration and operation of the Condominium Property. Any such management agreement shall provide that the same may be terminated by the Board of Directors for cause at any time upon thirty (30) days' notice to the manager. No such contract shall bind the Regime, unless terminated for cause, in excess of one year from the date of its inception. All costs and expenses incident to the employment of a manager shall be common expenses payable from the common expense fund. During his tenure, the manager may, if authorized by the Board of Directors, exercise all of the powers and shall be responsible for the performance of all the duties of the Regime, excepting any of those powers and duties specifically and exclusively reserved to the Directors, officers, or members of the Regime by the Act, this DECLARATION, or the BY-LAWS. The manager may be an individual, corporation, or other legal entity, as the Board of Directors shall determine and shall be bonded in such amount as the Board of Directors may require. The cost of acquiring any such bond shall be an expense of administration, payable from the common expense fund.

5. Restrictions on Contracts. Neither the Regime or Declarant shall enter into any contract, lease or other agreement, except contracts for the furnishing

of utilities or the management contact, which shall bind the unit owners or Regime for more than one year after the date of the first annual meeting. After the first annual meeting the Board of Directors shall not enter into any contract, lease or other agreement which shall bind the unit owners or Regime for a period of more than three years, unless approved by a majority of the unit owners.

6. Execution of Documents. When any agreement, contract, conveyance or other document is executed by the President and Secretary of the Regime, a third party without knowledge, or reason to know to the contrary, may rely on such document as being what it purports to be.

7. Property. All funds received and titles of all properties acquired by the Regime and the proceeds thereon after deducting therefrom the costs incurred by the Regime in acquiring the same, shall be held for the benefit of the unit owners as herein provided and for the purposes herein stated. The Board of Directors may acquire and hold, for the benefit of the unit owners, tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in such personal property shall be held by the unit owners in the same proportions as their respective individual interest in the Common Areas and Facilities. A transfer of a unit shall vest in the transferee ownership of the transferor's beneficial interest in such personal property.

The Board shall not deposit, invest or reinvest any funds of the Regime, unless such funds are invested in government securities, or deposited in banks which are members of the Federal Deposit Insurance Corporation, or savings and loan associations which are members of the Federal Savings and Loan Insurance Corporation.

8. Notices. Notices or demands, for any purpose, shall be given by the Regime and other unit owners in the nammer provided for notices to members of the Regime by the BY-LAWS of the Regime.

9. Enforcement. The failure of the Regime or any unit owner to enforce any covenant or provision of the Act, DECLARATION, BY-LAWS, or regulations

affecting the Condominium Property shall not constitute a waiver of the right to do so thereafter.

10. Rules and Regulations. Reasonable regulations concerning the use of the units, appurtenances thereto, and Common Areas and Facilities not in derrogation of this DECLARATION may be made and amended from time to time by the Board; provided that copies of such regulations and amendements thereto shall be furnished by the Regime to all unit owners Such regulations shall be binding upon the owners, their families, tenants, guests, invitees, and agents, until and unless such regulation, rule, or requirement be specifically overruled and cancelled in a regular or special meeting by the vote of a majority of the unit owners.

11. Violation of Rules and Regulations. Failure to abide by any such regulation, rule, or requirement shall be grounds for an action to recover damages, or obtain injunctive and equitable relief, or both. In addition to these remedies, in the event of violation by an owner of any rules or regulations, such owner's voting and use rights may be suspended by the Board after a hearing at which the general requirements of due process shall be observed. Such hearing shall only be held by the Board after giving owner ten (10) days' prior written notice specifying each alleged violation and setting the time, place, and date of the hearing. A determination of the violation and the time of suspension or other sanction shall be made by a majority vote of the Board. The owner shall have the right to appeal any adverse ruling of the Board and shall be entitled to a hearing de novo before the membership of the Regime, at which the general requirements of due process shall be observed. Upon an appeal by an owner of a decision by the Board, a special meeting shall be held within sixty (60) days from the decision by the Board, but the decision of the Board shall remain in effect unless overruled by a majority vote of the members present at the special meeting.

12. Liability. Each Director and each Officer of the Regime shall be held harmless from expense, loss, or liability by reason of having served as such Director or as such Officer and shall be indemnified by all the unit owners (as a common expense) against all expenses and liability, including reasonable

attorney's fees, incurred by or imposed upon him in connection with any proceeding to which he may be a part, or have become involved by reason of being such Director or such Officer, whether or not he is a Director or Officer at the time such expenses are incurred, except in such cases wherein the expenses and liability arise from a proceeding in which such Director or Officer is adjudged guilty of wilful misfeasance or malfeasance in the performance of his duties.

ARTICLE VII

MAINTENANCE, ORDINARY REPAIRS, AND ALTERATIONS TO COMMON AREAS

1. By the Regime. The Regime shall maintain, repair, and replace at its expense all parts of the Common Areas and Facilities, whether located within the perimeter walls of a unit or not, the cost of which shall be charged to the unit owners as a Common Expense.

2. By the Unit Owners. Each unit owner shall maintain, repair, and replace at his expense all portions of his unit which become in need thereof, including all drywall, moulding or panelling, bathroom and kitchen fixtures, light fixtures, wall and ceiling covering materials, matting, carpeting, drapes, and other items within the unit. Each unit owner shall maintain, repair, and replace, when necessary, all damage to windows and doors a part of his unit; except, however, damages to such caused by agents, employees, or sub-contractors employed by the Regime shall be repaired by the Regime. All damages to the Common Areas and Facilities and Limited Common Areas and Facilities intentionally or negligently caused by the unit owner, his family, guests, invitees, agents, servants, lessees, employees, or contractors shall be repaired promptly by such unit owner, except to the extent such damage is covered by hazard insurance required to be maintained by the Regime, in which case the Regime waives its right of indemnity to the extent of funds received paid pursuant to said insurance policy. If the unit owner defaults in his obligations herein and such default is not cured by him within fifteen (15) days from written demand by the Regime, the same may be cured by the Regime and the cost thereof shall be assessed against the unit owned by the subject unit owner.

Each unit owner shall be responsible for keeping the Limited Common Areas and Facilities under his control and dominion in a neat, sightly and proper manner. This shall not impose upon the unit owner the obligation to maintain or repair any strucutral or other similar item on property located within the Limited Common Areas and Facilities assigned to his unit, unless the damage is caused intentionally or negligently by the unit owner, as provided above.

3. Restrictions on Unit Owners. No unit owner shall perform or cause to be performed any maintenance, repair, or replacement work upon his unit which disturbs the rights of the other unit owners or jeopardizes the soundness or the safety of the Condominium Property. If the unit owner shall cause any work so performed on the Unit, which in the sole opinion of the Board violates the terms of this paragraph, it shall be immediately corrected and he shall refrain from recommencing or continuing any such work without written consent of the Board. A unit owner shall not repair, alter, replace, or move any of the Common Areas and Facilities located within his unit without the prior written consent of the Board.

A unit owner shall not paint or otherwise decorate or change the outside appearance of the building in which his unit is located, including doors or windows, or any appurtenance thereto or Limited Common Area serving his unit without the written consent of the Board.

4. Duty to Report. Each unit owner promptly shall report to the Board or its agent any defect or need for repairs or replacement, the responsibility for which is that of the Regime.

5. Alterations to Common Areas and Facilities. The Regime is authorized to make minor improvements to and alterations to the structures located on the Common Areas and Facilities, as a Common Expense; however, no major or structural improvements to or alterations of the Common Areas and Facilities, or improvements or alterations in excess of $1,000, shall be made by the Regime without first obtaining approval of the Membership by at least a sixty percent (60%) vote of the total membership, except when such improvements are made pursuant to ARTICLE IX hereof.

6. Approval of Payment Vouchers. All vouchers for payment of expenses incurred by the Regime in the maintenance, repair, alteration, and replacement of the Common Areas and Facilities shall be approved in writing, jointly by the President and Treasurer. In the absence or disability of the President, the Vice-President may perform the duties herein of the President, and the Assistant Treasurer may perform the duties of the Treasurer herein in the absence or disability of the Treasurer. Notwithstanding the foregoing, the Board may authorize any officer, Member, Committee, or Independent Manager to approve or disapprove all vouchers for payment of routine expenses incident to the maintenance, repair, alteration, or replacement of the Common Areas and Facilities, so long as the resolution granting such authority specifically limits the maximum amount which may be authorized on each occasion and so long as the subject resolution describes the items which may be so authorized.

ARTICLE VIII.

ASSESSMENTS

1. Initial Assessment; Maximum Amount. The Declarant shall fix the initial assessment which shall remain in effect until December 31, 1982. The monthly assessment for 1982 shall be SEVENTY DOLLARS ($70) for each type unit. For the calendar years after 1982, the annual assessment shall be set as follows:

(a) For the calendar year 1983, and thereafter, the annual assessment may be increased by the Board each year, without a vote of the membership, to an amount not more than ten percent (10%) in excess of the assessment for the previous year, or a percentage increase equal to the percentage increase in the consumer price index during the previous year, whichever is greater.

(b) For the calendar year 1987, and thereafter, the annual assessment may be increased above the increase allowed in (a) of this section by a vote of two-thirds of the members who are voting in person or by proxy at a meeting called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days, nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting. Quorum requirements for such meeting will be those required at a Special Meeting of the membership, as set out in the BY-LAWS.

(c) The Board of Directors may fix the annual assessment at any amount not in excess of the maximum stated above.

2086

2. Fixing of Assessment. Not later than December 15, 1982, and the same date of each year thereafter, the Board shall have determined and shall give written notice to the unit owners of the annual assessment affixed against each unit for the immediately succeeding calendar year. In determining the annual assessment for each calendar year, the Board shall estimate the Common Expenses for such year and shall then estimate the cash required to meet such Common Expenses. In determining the cash requirement, the Board shall include a reasonable reserve for contingencies, replacements and maintenance items not performed annually (including specifically, without limitation, reserves for exterior painting, for roof and gutter replacement, and street and parking area maintenance) and shall deduct any expected income and any surplus from the prior year's fund. The portion of the estimated cash requirement assessed against each unit shall be determined by the percentage interest for such unit. The failure of the Board to comply with the written notice requirement hereinabove provided shall not alter or invalidate any obligation of a unit owner, any right of the Regime against such unit owner, or any lien against a unit fixed by the Board and shall commence for all units subject herefor on the day of the recording of this Declaration, or with respect to additional units, on the day a Supplemental Declaration shall be filed affecting such units.

3. Monthly Installments. The annual assessments shall be paid to the Regime in equal monthly installments on or before the first day of each month during any assessment period. In the event of a unit owner's default for thirty (30) days, the Regime shall have the right to accelerate the entire unpaid balance of the annual assessment and to declare the same immediately due and payable.

4. Special Assessments. In addition to the annual assessments, the Regime may levy in any calendar year, special assessments for the purpose of supplementing the annual assessments if the same are inadequate to pay the Common Expenses and of defraying, in whole or in part, the cost of any construction or reconstruction, repair, or replacement of the Limited Common Areas and Facilities, the Common Areas and Facilities, including the necessary fixtures and personal property related thereto; provided, however, that any such special assessments shall have the assent of a majority of the votes represented, in person or by proxy, at a meeting, at which a quorum is present,

2087

duly called for the express purpose of approving such expenditure, written notice of which shall be sent to all owners not less than ten (10) days nor more than sixty (60) days in advance of the meeting, which notice shall set forth the purpose of the meeting. Special Assessments shall be fixed against the units according to their Percentage Interests; the period of the assessment and manner of payment shall be determined by the Board.

5. Purpose of Assessments, Common Expenses. The annual and special assessments fixed and collected pursuant to this section shall be used to pay the Common Expenses including, but not limited to, all expenses, costs, and charges incurred by the Regime in connection with the administration, management, and operation of the Condominium Property; the costs of maintenance, repair, replacement, and restoration of the Common Areas and Facilities, or any part thereof and reasonable reserves for items not expensed on at least an annual basis; the cost of all insurance obtained by the Board pursuant to ARTICLE IX of this DECLARATION; and any and all other expenses, costs, or charges agreed upon as Common Expenses by the Regime or declared Common Expenses by the provisions of the Act or this DECLARATION. All assessments, replacement funds, accumulated income, insurance, and other escrows and all other assets of the Regime in excess of that needed for the purposes herein stated, determined yearly, either shall be applied to reduce the succeeding year's assessments or shall be returned to the unit owners, as determined by the Board; except, however, the Board shall have the right to create and to maintain an escrow or trust fund for such reserves as it deems fit.

6. Lien and Personal Obligation. Each assessment provided for in this Article, together with interest from delinquent date at a rate or dollar figure set by the Board not to exceed the amounts provided in Section 7 hereafter or the maximum allowed by law and collection costs including reasonable attorneys' fees, shall be a charge on and continuing lien upon the unit against which the assessment is made when a notice of such lien has been filed of record in the Office of the Clerk of Superior Court for Polk County, North Carolina, in the manner provided in Chapter 44 of the North Carolina General Statutes,

provided such notice of lien shall not be filed until such sums assessed remain unpaid for a period of thirty (30) days after the same shall become due. Such notice of lien shall secure also all assessments against the unit becoming due thereafter until the lien has been satisfied. In addition, each unit owner shall be liable personally for any assessment against his unit coming due or payable while he is the owner of such unit. A grantee of a unit shall be liable, jointly and severally, with the grantor for all unpaid assessments against such unit due and owing at the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. Any unit owner or grantee of a unit owner shall be entitled to a statement from the Board setting forth account of the unpaid assessments against the unit owner and such grantee shall not be liable for, nor shall the unit conveyed be subject to a lien for, any unpaid assessments in excess of the amount therein set forth.

7. Effect of Nonpayment of Assessment, Remedies of Regime. In the event that any assessment installment is not paid within thirty (30) days after the due date, the Board of the Regime may, at its option, declare the entire unpaid annual assessment immediately due and payable, and such unpaid assessment shall bear interest from the date of acceleration, which shall be effective upon the sending of notice to the owner of the unit concerned regardless of the receipt thereof, such interest to be at a rate determined by the Board of Directors, but not in excess of the then current "prime rate" established by area banks or the maximum allowed by law. In any event, any assessment installment not paid within thirty (30) days after its due date shall bear interest from the due date at a rate determined by the Board of Directors, but in no event shall the interest rate exceed the then current "prime rate" established by area banks, or the one time charge of $5.00, whichever is greater; except that such rate shall not exceed the maximum allowed by law. The Regime may bring an action at law against the owner personally obligated to pay the assessment, and interest, reasonable attorney's fees and costs of such action or foreclosure shall be added to the amount of such assessment.

2089

Notwithstanding anything hereinbefore stated in this section, during any period in which an owner shall be in default in payment of any installment of an annual, special, or other periodic assessment levied by the Regime, the voting rights and the right to the use and enjoyment of the Common Areas and Facilities or any services, including without limitation, water and sewerage disposal, or facilities which the Regime provides may be suspended by the Board of Directors until such assessment is paid. Prior to the termination of services, voting rights, or use of the facilities for failure to pay assessments, the procedure outlined in Section 11 of ARTICLE VI. shall be followed.

8. Priority of Assessment Lien. The lien of the assessments provided for in this section shall be prior and superior to all other liens except (a) ad valorem taxes, (b) all sums unpaid on all mortgages recorded prior to the docketing of the assessment lien, and (c) materialmen's and mechanic's liens. The sale or transfer of any unit shall not affect the assessment against such unit; provided, however, the sale of a unit pursuant to the foreclosure sale or execution sale instituted by a superior lien holder shall extinguish the inferior assessment lien against the subject unit, but no such sale or transfer shall relieve such unit from liability of any assessments thereafter becoming due or for any future lien in connection therewith. The Regime shall share in the excess, if any, realized by the sale of any unit pursuant to a foreclosure or action instituted by a superior lien holder. Provided, however, that a mortgagee or other purchaser of a unit at a foreclosure sale of such unit or who obtains title to such unit by deed in lieu of foreclosure of such unit, or by any other proceeding in lieu of foreclosure shall not be liable for and such unit shall not be subjected to a lien for the payment of such assessment which accrued prior to the acquisition of title of such unit by the mortgagee or other purchaser, providing further that such unpaid assessment shall be deemed to be Common Expenses collectible from all of the unit owners including the mortgagee or other purchaser.

9. Owner's Non-Use. No unit owner may exempt himself from liability for his contributions toward Common Expense and his other obligations to

2090

the Regime by waiver for the use or enjoyment of any portion of the Common Areas and Facilities, or by the abandonment or sale of his unit, except that Declarant may deduct from its assessment a reasonable amount for use related items not consumed, such as water and sewer for any unit owned by him and not occupied.

ARTICLE IX.

INSURANCE

1. Authority to Purchase. The Board shall have the authority to and shall obtain a master insurance policy upon the Condominium Property for the benefit of the Regime, the unit owners, and their mortgages as their interest may appear, and provisions shall be made for the issue of certificates of mortgagee endorsements to the mortgagees of the unit owners. The original of such policy and endorsements thereto shall be deposited with the Regime, as Insurance Trustee, and unit owners may inspect such policy at any time during reasonable working hours and after reasonable notice to the Board. Unit owners may obtain insurance coverage at their own expense upon their personal property and for their personal liability and living expense.

2. Coverage.

(a) Casualty. The buildings and all other improvements upon the land and all personal property included in the Common Areas and Facilities, and originally installed fixtures, cabinets, and wall and floor coverings of the units shall be insured in an amount equal to the full replacement value (i.e., 100% of the "replacement cost"), exclusive of foundations and excavation. Such coverage shall afford protection against:

(i) loss or damage by fire with extended coverage endorsement; and

(ii) such other risks as from time to time shall customarily be covered with respect to buildings similar in construction, location, and use as the Buildings, including but not limited to, vandalism and malicious mischief.

(b) Public Liability. The liabilities of the Regime shall be insured in such amounts as shall be required by the Board and each unit owner shall be named as an additional insured but only with respect to his liability arising out of the ownership, maintenance, or repair of the Common Areas and Facilities. Such insurance shall include endorsements covering cross liability claims of one insured against another, including the liability of the unit owners as a group to a single unit owner. The Board of Directors shall review such insurance and its limits annually. Such public liability insurance shall be in amounts not less than $250,000/$1,000,000 for claims for bodily injury and $25,000 for claims for property damage.

2091

(c) Other. The Regime may obtain such other insurance coverages as the Board determines from time to time to be desirable, including liability insurance to protect the members of the Board for any negligence while acting in their official capacity.

3. Premiums. Premiums upon insurance policies purchased by the Regime shall be paid by the Regime as a Common Expense.

4. Policies Content. The Board of Diectors shall make every effort to secure insurance policies that will provide for the following:

(a) The master policy on the property cannot be cancelled, invalidated, or suspended on the account of the conduct of any one or more individual owners;

(b) The master policy on the property cannot be cancelled, invalidated, or suspended on account of the conduct of any officer or employee of the Board, or manager, without prior demand in writing that the Board of Directors or manager cure the defect; and

(c) That any "no other insurance" clause in the master policy on the property exclude individual owner's policies from consideration.

5. Receipt of Proceeds, Insurance Trustee. All insurance policies purchased by the Board shall be for the benefit of the Regime, the unit owners, and their mortgagees as their interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Regime, as Insurance Trustee. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes hereinafter stated and for the benefit of the unit owners and their mortgagees in the following shares:

(a) Common Areas and Facilities. An undivided share of the proceeds received by the Regime on account of damage to the Common Areas and Facilities shall be held for each unit owner and such share shall be determined by the subject unit owner's percentage interest in the Common Areas and Facilities;

(b) Units. Proceeds received by the Regime on account of damage to units shall be held for the unit owners of the damaged units in proportion to the cost of repairing the damage suffered by each unit owner, which cost shall be determined by the Regime. When the building is not to be restored, an undivided share for each unit owner, such share being the same as his percentage interest in the Common Areas and Facilities; and

(c) Mortgagees. In the event a mortgagee endorsement has been issued for 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; provided, that no mortgagee shall have the right to

2092

determine or participate in the determination as to whether any damaged property shall be reconstructed or repaired.

6. Distribution of Proceeds. Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

(a) Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be paid to defray the cost thereof as provided above. All proceeds remaining after defraying such costs shall be distributed to the Regime. This is a covenant for the benefit of any mortgagee of a unit and may be enforced by such mortgagee; and

(b) Failure to Reconstruct or Repair. If it is determined as provided in Section 10 that the damage for which the proceeds are paid shall not be reconstructed or repaired, the proceeds shall be distributed to the beneficial owners as set forth in Section 10. Any remittances to unit owners and their mortgagees shall be paid jointly to them. This is a covenant for the benefit of any mortgagee of a unit and may be enforced by such mortgagee.

7. Regime as Agent. The Regime hereby is irrevocably appointed Agent for each unit owner and for each mortgagee or holder of a lien upon a unit and for each owner of any other interest in the Condominium Property to adjust all claims arising under insurance policies purchased by the Regime and to execute and deliver releases upon the payment of claims.

8. Waivers. All policies of physical damage insurance obtained by the Board pursuant to this Article shall contain waivers of subrogation against unit owners, their tenants, employees, invitees, the Regime, and others having an interest in the Condominium Property. Such policies shall provide that the same may not be cancelled or substantially modified without at least thirty (30) days' prior written notice to the Regime.

9. Duty to Repair. In the event of damage to or destruction of a building as a result of fire or other casualty and the Condominium Property is not partitioned as provided in Section 10, the Board shall arrange for the prompt repair and restoration of the Building (including any damaged unit, but not including any wall, ceiling or floor decoration or coverings or other furniture, furnishings, fixtures, or equipment in the unit, unless the subject insurance policy covers a portion of all of such loss to the unit, in which event the Regime shall repair or replace such damage), and the Board shall disburse the proceeds of all insurance policies to the contractors engaged in such repair or restoration in appropriate progress payments. Any cost of

2093

such repair and restoration in excess of the insurance proceeds shall constitute a Common Expense.

10. Partition. If the Buildings shall be more than two-thirds (2/3rds) destroyed by fire or other disaster and the owners of three-fourths (3/4ths) of the property duly resolve not to proceed with repair or restoration, then, and in that event:

(a) The entire condominium property shall be deemed to be owned as tenants in common by the unit owners; and

(b) The undivided interest in the Condominium Property owned by each unit owner shall be his Percentage Interest in the Common Areas and Facilities previously appurtenant to his unit or units; and

(c) Any liens or encumbrances affecting any unit shall be deemed transferred in accordance with the existing priority to the percentage of undivided interest of the subject unit owner in the Condominium Property as hereinabove provided; and

(d) The Condominium Property shall be subject to an action for sale in lieu of partition at the suit of any unit owner, in which event the net proceeds of insurance policies, if any, shall be considered as one fund and shall be divided among the unit owners in the proportion to their Percentage Interests in the Common Areas and Facilities previously appurtenant to their units 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.

The determination of whether the Buildings are "more than two-thirds (2/3rds) destroyed" for the purposes herein stated, shall be made as follows:

An appraisal of the value of the Buildings (excluding land) as of the day immediately preceding the damage shall be obtained by the Board from two (2) appraisers approved by the Polk County Board of Realtors or two M.A.I. appraisers. The cost of repairs and restoration shall then be determined by the Board of Directors by securing not less than three (3) independent bids, in writing, from three (3) reputable building contractors in the community of their proposed charges for making such repairs or restorations, the lowest of which shall be deemed to be the cost. If the cost exceed two-thirds (2/3rds) of the appraised value, the Buildings shall be deemed more than two-thirds (2/3rds) destroyed.

ARTICLE X.

ARCHITECTURAL CONTROL

1. Approval Required for Changes. To preserve the original architectural appearance of ONE TRYON PLACE, after the purchase of a condominium unit from Declarant, his successors, or assigns, no exterior construction of any nature

2094

whatsoever, except as specified in the Act or this DECLARATION, shall be commenced or maintained upon any building, including without limitation, the Limited Common Areas and Facilities nor shall there by any change, modification, or alteration of any nature whatsoever of the design and appearance of any of the exterior surfaces, or facades, nor shall any owner paint, decorate, or change the color of any exterior surface, gate, fence, or roof, nor shall any owner change the design or color of the exterior lights, nor shall any owner install, erect, or attach to any part of the exterior any sign of any kind whatsoever, nor shall any exterior addition or change, including without limitation, the generality of the foregoing, the erection or construction of any fence or wall, be made unless and until the plans and specifications showing the nature, kind, shape, height, materials, color, and location of the same shall have been submitted to and approved in writing as to harmony of exterior design, color and location in relation to the surrounding structures by the Board. The Declarant shall be exempt from the provisions of this Article until eighty percent (80%) of the units have been sold.

ARTICLE XI.

CONDEMNATION

1. General. Whenever all or any part of the property shall be taken by any authority having the power of condemnation or eminent domain, each owner shall be entitled to notice thereof and to participate in the proceedings incident thereto unless otherwise prohibited by law. The award made for such taking shall be payable to the Regime. Unless otherwise required by law at the time of such taking, any award made therefor shall be disbursed by the Regime as hereinafter provided in this ARTICLE.

2. Common Areas. If the taking is confined to the Common Areas and Facilities on which improvements shall have been constructed and if at least seventy-five percent (75%) of the total vote of the Regime shall decide within sixty (60) days after such taking to replace such improvement, or any part thereof, on the remaining land included in the Common Areas and Facilities and according to plans therefor to be approved by the Regime, then the Board shall arrange for such replacement and the Regime shall disburse the proceeds of such

2095

award in the same manner as they are required to disburse insurance proceeds where damage or destruction to the property is to be repaired or reconstructed as provided for in ARTICLE IX. hereof; subject, however, to the right hereby reserved to the Regime which may be exercised by a majority of the total vote thereof to provide for the disbursement by the Regime of the remaining proceeds held by it (after payment of all costs incident to such replacement) to the owners or any one or more of them in amounts disproportionate to the Percentage Interests appurtenant to their units established herein, which disproportionate amounts shall correspond with the disproportionate damages sustained by the owners or any one or more of them as the Regime may determine. If at least seventy-five percent (75%) of the total vote of the Regime shall not decide within sixty (60) days after such taking to replace such improvements or if the taking is confined to the Common Areas and Facilities on which no improvements shall have been constructed, then the Regime shall disburse the proceeds of the award in the manner hereinabove provided for the disbursement of the remaining proceeds of an award after payment of all costs incident to replacement of improvements taken, including the right reserved to the Regime to provide for the disbursement of the remaining proceeds held by it to the owners in disproportionate amounts.

3. Units. If the taking includes one or more units, any part or parts thereof or the Limited Common Areas and Facilities, or parts thereof, to which a unit has exclusive use then the award shall be disbursed and all related matters, including without limitation, alteration of the Percentage Interest appurtenant to each unit, shall be handled pursuant to and in accordance with the consent of all owners expressed in a duly recorded amendment to this DECLARATION. Such amendements, if any, shall realign the Percentage Interests, establish the method of distributing the condemnation award, and include such other provisions as all of the unit owners deem reasonable and appropriate. Further provided, such amendement shall be executed by the mortgagee of such units and shall not prejudice the creditors or other third parties who have an interest in the condemnation award with respect to their

2096

rights, if any, in such award. In the event that such an amendement shall not be recorded within ninety (90) days after such taking, then such taking shall be deemed to be and shall be treated as damage or destruction which shall not be repaired or reconstructed as provided for in Section 10 of ARTICLE IX. herein, whereupon the development will be terminated in the manner therein prescribed.

ARTICLE XII.

TERMINATION OF UNIT OWNERSHIP

1. Agreement.

(a) The property may be removed from the provisions of this DECLARATION and the Unit Ownership Act, by an instrument to that effect, duly recorded, approved by all unit owners, provided that the holders of all liens, affecting any of the units, consent thereto or agree, in either case by instrument duly recorded, that their liens be transferred to the percentage of the undivided interest of the unit owner in the property.

(b) Upon removal of the property from the provisions of the Act, and this DECLARATION, the property shall be deemed to be owned as tenants in common by the unit owners. The undivided interest in the property owned as tenants in common which shall appertain to each unit owner shall be the percentage of the undivided interest previously owned by such unit owner in the Common Areas and Facilities.

(c) Notwithstanding anything to the contrary in this ARTICLE XII., if the Unit Ownership Act is amended to allow termination of Unit Ownership by less than all of the unit owners and all of the holders of liens, then said amendemnt of the statute shall control this DECLARATION; provided that in no event shall the property be removed from Unit Ownership unless approved by the unit owners owning at least ninety percent (90%) of the percentage interest in the Common Areas and Facilities, and the holders of ninety percent (90%) of the indebtedness of mortgage liens affecting the property.

2. Destruction. In the event it is determined in the manner provided in Section 10., ARTICLE IX., of this DECLARATION, that the property shall not be repaired or reconstructed after fire or other casualty, the condominium shall be terminated and the condominium documents revoked. The determination not to repair or reconstruct after a fire or other casualty shall be evidenced by a certificate of the Regime certifying as to the facts affecting the termination, which certificate shall become effective upon being duly recorded in the Polk County Registry.

3. Condemnation. In the event that one or more units or any part thereof shall be taken in condemnation or by eminent domain, and the consent

of all owners shall not be expressed in amendements to this DECLARATION, and the BY-LAWS, duly recorded within sixty (60) days after such taking as provided in ARTICLE XI. of this DECLARATION, the condominium shall be terminated and the condominium documents revoked. Such taking shall be evidenced by certificate of the Regime certifying as to the facts effecting the termination which certificate shall become effective sixty (60) days following the taking, upon the certificate being duly recorded in the Polk County Registry.

ARTICLE XIII.

AMENDMENTS

1. By Owners. This DECLARATION may be amended by the vote of the unit owners owning at least a majority of the interest in the Common Areas and Facilities, provided that no such amendment shall be effective until placed in writing, executed, and acknowledged by unit owners owning at least a majority of the Common Areas and Facilities, and filed for registration in the Polk County Registry; provided, howerver, if a larger vote is required to take or refrain from taking a specific action, as set forth in the Act or this DECLARATION, no amendement shall be made unless and until the unit owners holding such larger percentage interest in the Common Areas and Facilities execute such amending instrument. All persons or entities who own or hereafter acquire any interest in the condominium property shall be bound to abide by any amendment to this DECLARATION, upon the same being passed as provided herein and duly set forth in an amended DECLARATION, and duly recorded as provided herein. Nothwithstanding anything to the contrary contained in this DECLARATION or the BY-LAWS attached hereto, no change or amendment to this DECLARATION or the BY-LAWS shall affect or change the percentages of the undivided interest of each unit owner in the Common Areas and Facilities, except the change of percentage interest resulting from expansion of the condominium as set out in ARTICLE XIV hereof; nor provide for the subdividing of any unit, unless all unit owners, and all holders of mortgages upon individual units, shall have given their written approval thereof. Except as provided in Section 10 of ARTICLE IX., no amendment to this DECLARATION, or the BY-LAWS, shall allow the partitioning of the Common Areas and

2098

Facilities, unless all unit owners, and all first mortgage lien holders upon the individual units shall have given their written approval thereof. No amendement made by the unit owners shall be effective prior to January 1, 19________, without the consent of the Declarant, so long as the Declarant owns any unit.

2. Restriction on Amendments. No amendment to this DECLARATION or to the BY-LAWS shall be adopted or passed which shall impair or prejudice the rights and priorities of a mortgagee as holder or owner of a mortgage or deed of trust or other type security agreement encumbering any of the units in the Condominium Property.

ARTICLE XIV.

ADDITION OF LAND AND UNITS - PERCENTAGE INTEREST OF COMMON ELEMENTS

1. Supplementary Declaration. Any one or more or all of Phases II, III, IV, V, VI and Parking Area as each are described in Exhibit B may be added to the condominium property by Declarant by the filing of a Supplementary Declaration, which describes or identifies the property to be added, specifically incorporates the terms and conditions of this Declaration and makes the property described therein subject to this Declaration. In addition, such Supplementary Declaration shall have attached thereto the site surveys and air surveys of the condominiums and certificates required by the Act, together with such other provisions as deemed necessary by Declarant. Upon such recording, the property described in the Supplementary Declaration shall become part of the condominium property as if such property had been included in this Declaration, and by accepting a deed subject to this Declaration and any applicable Supplementary Declaration, Unit Owners agree to such additions to the condominium.

2. Percentage Interest. As the result of recording of this DECLARATION, the percentage interest of each Unit Owner in Phase I is established in the percentages for Phase I set out in the chart made part of this Section 2 of ARTICLE XIV. As each one or more Phases are added to the condominium, the

2099

percentage interest of each unit owner in the Common Elements of the condominium reduces, depending on the Phase or Phases added and the total combination of Phases subject to this Declaration. To determine the applicable percentage interest of each unit that is or may become part of the condominium, determine the number of Phases that are or will become subject to this DECLARATION by virtue of recording of this DECLARATION and Supplementary Declarations and find the appropriate column headed by the Phase numbers identifying those particular included Phases, and in that column find the percentage interest listed for the appropriate condominium unit. The appropriate stated percentage interest, as shown on the chart hereafter is the percentage interest that is appurtenant to ownership of each condominium unit in ONE TRYON PLACE. By acceptance of a deed to a condominium unit in ONE TRYON PLACE, each owner, for himself, his heirs, successors and assigns, agrees and consents that Declarant, without need for further consent or joinder of any unit owner, may add any one or more or all Phases described in Exhibit B to the condominium, and upon the recording by Declarant of the Supplementary Declaration, the percentage interests shall be automatically changed to the appropriate percentage interest shown on the chart for the number of Phases then subject to this Declaration. No Supplementary Declaration may change the percentage interest other than as shown on the chart, unless the Supplementary Declaration is joined by one hundred percent (100%) of unit owners in the manner required for amendment of the Declaration to change percentage interests of ownership in Common Elements. Phases are added to the condominium in numerical order.

2101

ARTICLE XVI

GENERAL PROVISIONS

1. Covenants Running with the Land. All provisions of this DECLARATION shall be construed to be covenants running with the land, and with every part thereof and interest therein including, but not limited to, every unit and the appurtenances thereto; and each and every provision of the DECLARATION shall bind and inure to the benefit of all unit owners and claimants of the land or any part thereof or interest therein and their heirs, executors, administrators, successors and assigns.

2. Duration. So long as North Carolina law limits the period during which covenants restricting lands to certain uses may run, it shall be the duty of the Board of Directors to cause the covenants contained herein, as amended from time to time, to be extended when necessary by filing a document bearing the signatures of a majority of the then owners reaffirming the newly adopting the DECLARATION and covenants then existing in order that the same may continue to be covenants running with the land. Such adoption by a majority shall be binding on all, and each owner of any unit, by acceptance of a deed therefor, is deemed to agree that the DECLARATION and covenants may be extended as provided in this Section 2.

3. By-Laws. A true copy of the BY-LAWS of the Regime, which together with this DECLARATION shall govern the administration of the Condominium, is attached hereto as Exhibit C, and, by reference, made a part hereof.

4. Enforcement. Each owner shall comply strictly with the BY-LAWS and with the administrative rules and regulations adopted pursuant thereto, as either of the same may be lawfully amended from time to time, and with the covenants, conditions, and restrictions set forth in this DECLARATION or in the deed to his unit. Failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief, or both maintainable by the Board of Directors on behalf of the Regime or by an aggrieved owner. Failure by the Regime or by any owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter.

2102

5. Severability. Invalidation of any covenant, condition, restriction, or other provision of this DECLARATION or the BY-LAWS, shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.

6. Perpetuities and Restraints on Alienation. If any of the covenants, conditions, restrictions, or other provisions of this DECLARATION shall be unlawful, void or viodable, for violation of the Rule Against Perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last person of the following group of persons living at the date of the recording of this DECLARATION: MARY PAULA PETTY, ELIZABETH McCASLAN PETTY, JOHN L. PETTY IV each being a minor of Spartanburg County, South Carolina, and AMY ELIZABETH SMITH, a minor of Polk County, North Carolina.

7. Gender and Grammar. The singular, wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereo apply to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

8. Interpretation. The provisions of this DECLARATION and the BY-LAWS shall be liberally construed to effectuate its purpose in creating a uniform plan for the development and operation of the Condominium Property.

9. Voting and Percentages. Unless expressly stated to the contrary, all percentages for voting purposes means the owners of that percentage of the interest in the Common Areas and Facilities, by adding the percentage interests as set forth in this DECLARATION.

10. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit, or describe the scope of this DECLARATION or the intent of any of the provisions hereof.

11. Law Controlling. This DECLARATION and the BY-LAWS attached hereto shall be construed and controlled by and under the laws of the State of North Carolina. Provided, however, that if there are conflicts or inconsistencies between the Act, this DECLARATION, or by BY-LAWS, the terms and provisions of

2103

the Act and this DECLARATION (in that order) shall prevail and the unit owners covenant to vote in favor of such amendements as will remove such conflict or inconsistencies, except that where the Act, the DECLARATION, or the BY-LAWS conflict and the provisions of the Act are merely enabling and not mandatory, the provisions of the DECLARATION or the BY-LAWS shall control.

ARTICLE XVII

SPECIAL PROVISIONS CONCERNING VETERAN'S ADMINISTRATION AND INSTITUTIONAL LENDERS

1. Veteran's Administration Approval. Wherever in this DECLARATION or in the BY-LAWS consents or approvals of mortgagees having a first mortgage are required for any action, change or amendement to this DECLARATION or the BY-LAWS and any loan on a unit in the Property is guaranteed by the Veteran's Administration, the consent or approval of the Veteran's Administration shall also be required before such action, change or amendment shall be effective.

2. Lender's Rights. Any mortgagee having a first mortgage on a unit in the Property will, upon request, be entitled to:

(i) inspect the books and records of the Property during normal business hours;

(ii) receive an annual audited financial statement of the property within ninety (90) days following the end of any fiscal year of the Property; and

(iii) written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings.

The Declarant does hereby declare that the benefits which will accrue to his property by the execution of this DECLARATION constitutes a good and valuable consideration for the execution of the same.

IN WITNESS WHEREOF, said Declarant has caused this instrument to be executed, this the day and year first above written.

________________________________ (SEAL)
B.L. DeBORD, Declarant

2104

STATE OF NORTH CAROLINA

COUNTY OF POLK

I, ____, a Notary Public, do hereby certify that B.L. DeBORD personally appeared before me this day and acknowledged the due execution of the foregoing DECLARATION of CONDOMINIUM for the purposes therein expressed.

WITNESS my hand and notarial seal, this _________ day of June, 1982.

____ N.P.(SEAL)

My commission expires:

____

2105

JOINDER AND CONSENT OF LENDER AND TRUSTEE

The NORTHWESTERN BANK, owner and holder of two Deeds of Trust as recorded in Book 179 at Page 149 and in Book 179 at Page 1703, in the office of the Register of Deeds for Polk County, North Carolina, and WILLIAM H. MILLER, Trustee therein, do hereby join in the execution of this DECLARATION of CONDOMINIUM of ONE TRYON PACE for the purpose of consenting to the legal effect and operation of said DECLARATION, and for the purpose of subordinating the liens of said Deeds of Trust to the legal effect and operation of said DECLARATION.

IN WITNESS WHEREOF, THE NORTHWESTERN BANK, and WILLIAM H. MILLER, as Trustee, have joined in the execution of said DECLARATION, this the 28th day of June, 1982.

(CORPORATE SEAL)
Attest:

____
______________ Secretary

THE NORTHWESTERN BANK
BY:______________________________
______________, Vice President

____
WILLIAM H. MILLER, Trustee

STATE OF NORTH CAROLINA - COUNTY OF ______________

I, a Notary Public of the County and State aforesaid, certify that ______________________ personally came before me this day and acknowledged that he is ____________ Secretary of THE NORTHWESTERN BANK, a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its __________ President, sealed with this corporate seal and attested by ______________________ as its __________ Secretary.

WITNESS my hand and notarial seal, this _______ day of June, 1982.

______________________________ N.P.(SEAL)

My commission expires:

____

2106

STATE OF NORTH CAROLINA - COUNTY OF POLK

I,______________________________, a Notary Public, do hereby certify that WILLIAM H. MILLER personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

WITNESS my hand and notarial seal, this__________day of June, 1982.

______________________________N.P.(SEAL)

My commission expires:

____

2107

EXHIBIT A - Legal Description of all property subject to being included in ONE TRYON PLACE, lying and being in Tryon Township, Polk County, North Carolina, and being more particularly described as follows:

BEGINNING on an iron pin located in the line of the property belonging to First Federal Savings and Loan Association of Hendersonville, said iron pin being a common corner of the James W. Bodie and Mildred D. Bodie property and the tract herein conveyed; and running thence from said beginning iron pin and with the James W. and Mildred D. Bodie line, South 40 degrees 30 minutes East 150 feet to an iron pin located in the line of the property now or formerly belonging to Ellis M. Fincher; thence with the Fincher line, three (3) calls as follows: South 49 degrees 45 minutes West 56.42 feet to an old iron pin, South 41 degrees 54 minutes East 96.22 feet to a nail in a stone pile and North 57 degrees 44 minutes East 27.91 feet to an old iron pin in the line of the property now or formerly belonging to TMA, Incorporated; thence South 39 degrees 53 minutes East 197.99 feet to a nail located in Jervey Road; thence along Jervey Road, South 57 degrees 20 minutes West 246.87 feet to a nail; thence leaving Jervey Road and running North 65 degrees 39 minutes West 237.71 feet to an old iron pin; thence North 68 degrees 58 minutes West 189.43 feet to an old iron pin located near the margin of Carolina Drive; thence, more or less, along the margin of Carolina Drive, four (4) calls as follows: North 26 degrees 10 minutes East 134.6 feet to a nail, North 09 degrees 15 minutes West 100.62 feet to a nail, North 22 degrees 07 minutes West 131.34 feet to a nail and cap, and North 22 degrees 10 minutes West 149.85 feet to a nail; thence North 33 degrees 45 minutes East 124.97 feet to an old iron pin; thence North 36 degrees 03 minutes East 67.17 feet to an old iron pin; thence South 34 degrees 43 minutes East (passing an old iron pin at 105.94 feet and another old iron pin at 220.35 feet) 249.6 feet to a concrete monument, said concrete monument being a common corner of the property of First Federal Savings and Loan Association of Hendersonville and the tract herein conveyed; thence with the line of the property belonging to First Federal Savings and Loan Association of Hendersonville, South 40 degrees 30 minutes East 175.03 feet to a concrete monument; thence continuing with the line of the property belonging to First Federal Savings and Loan Association of Hendersonville, North 49 degrees 32 minutes East 39 feet to the point of BEGINNING.

The above described property is the identical proerty as shown and delineated upon a plat entitled, "Survey for Bernie DeBord, Located at Tryon," dated July 13, 1981, and prepared by Wolfe and Huskey, Inc., Engineering and Surveying, P.O. Box 35, Lyman, South Carolina 29365 and further designated by plat identification #M-173.

2108

EXHIBIT B - Legal Description of Phases I, II, III, IV, V and VI

PHASE I:

Being a portion of the land described in Exhibit A, and being more particularly described as follows:

BEGINNING on an old iron pin located at the terminus of the seventh (7th) call in the land described in Exhibit A, and running thence from said beginning old iron pin, North 68 degrees 58 minutes West 189.43 feet to an iron pin located near the margin of Carolina Avenue; thence North 26 degrees 10 minutes East 134.6 feet to a nail located on the margin of Carolina Avenue; thence South 46 degrees 20 minutes East 355.43 feet to a point; thence South 18 degrees 48 minutes West 120 feet to the point of BEGINNING.

PHASE II:

Being a portion of the land described in Exhibit A, and being more particularly described as follows:

BEGINNING on a nail located on the margin of Carolina Avenue located at the terminus of the ninth call in the land described in Exhibit A, and running thence from said beginning nail and along the margin of Carolina Avenue, three (3) calls as follows: North 9 degrees 15 minutes West 100.62 feet to a nail, North 22 degrees 07 minutes West 131.34 feet to a nail and cap, and North 22 degrees 10 minutes West 149.85 feet to a nail; thence North 33 degrees 45 minutes East 124.97 feet to an old iron pin; thence North 36 degrees 03 minutes East 67.17 feet to an old iron pin; thence South 34 degrees 43 minutes East (passing an old iron pin at 105.94 feet and another old iron pin at 220.35 feet) 249.6 feet to a concrete monument, said concrete monument being a common corner of the property of First Federal Savings and Loan Association of Hendersonville and the tract herein described; thence South 40 degrees 30 minutes East 175.03 feet to a concrete monument; thence South 18 degrees 48 minutes West 269.85 feet to a point; thence North 46 degrees 20 minutes West 355.43 to the BEGINNING.

PHASE III:

Being a portion of the land described in Exhibit A, and being more particularly described as follows:

BEGINNING on an old iron pin located at the terminus of the seventh call in the land described in Exhibit A, and running thence from said beginning old iron pin, North 18 degrees 48 minutes East 120 feet to a point; thence South 67 degrees 55 minutes East 150.7 feet to a point; thence South 39 degrees 38 minutes West 130 feet to a point; thence North 65 degrees 39 minutes West 104.71 feet to the BEGINNING.

2109

EXHIBIT B - Continuation Page of Legal Description of Phases I, II, III, IV V and VI

PHASE IV:

Being a portion of the land described in Exhibit A, and being more particularly described as follows:

BEGINNING on an iron pin located in the line of the property belonging to First Federal Savings and Loan Association of Hendersonville, said iron pin being a common corner of the James W. Bodie and Mildred D. Bodie property and the tract herein described; and running thence from said beginning iron pin and with the James W. and Mildred D. Bodie line, South 40 degrees 30 minutes East 150 feet to an iron pin located in the line of the property now or formerly belonging to Ellis M. Fincher; thence with the Fincher line, two (2) calls as follows: South 49 degrees 45 minutes West 56.42 feet to an old iron pin and South 41 degrees 54 minutes East 96.22 feet to a nail in a stone pile; thence South 39 degrees 38 minutes West 149.73 feet to a point; thence North 67 degrees 55 minutes West 150.7 feet to a point; thence North 18 degrees 48 minutes East 269.85 feet to a concrete monument; thence North 49 degrees 32 minutes East 39 feet to the BEGINNING.

PHASE V:

Being a portion of the land described in Exhibit A, and being more particularly described as follows:

BEGINNING on a nail located in the center of Jervey Road at the terminus of the sixth call in the land described in Exhibit A, and running thence from said beginning nail, North 65 degrees 39 minutes West 133 feet to a point; thence North 39 degrees 38 minutes East 130 feet to a point; thence South 58 degrees 09 minutes East 167.36 feet to a point in the center of Jervey Road; thence along the center of Jervey Road, South 57 degrees 20 minutes West 123.44 feet to the BEGINNING.

PHASE VI:

Being a portion of the land described in Exhibit A, and being more particularly described as follows:

BEGINNING on a nail located in the center of Jervey Road at the terminus of the fifth call in the land described in Exhibit A, and running thence from said beginning nail and along the center of Jervey Road, South 57 degrees 20 minutes West 123.43 feet to a point; thence North 58 degrees 09 minutes West 167.36 feet to a point; thence North 39 degrees 38 minutes East 149.73 feet to a point; thence North 57 degrees 44 minutes East 27.91 feet to a point; thence South 39 degrees 53 minutes East 197.99 feet to the BEGINNING.

2110

EXHIBIT B-1 - TITLE EXCEPTIONS

The DECLARATION is made subject to the following matters affecting title to the Condominium Property:

1. Taxes for the year 1982 and subsequent years.

2. Right-of-way for Jervey Road, affecting the Southerly side of Phases V and VI.

3. Right-of-way for Carolina Avenue affecting the Westerly side of Phases I and II.

4. Rights of others entitled to the continued uninterrupted flow of creek, affecting Phases II, IV and VI.

5. Right-of-ways for sanitary sewer lines, electric lines, water lines, gas lines and telephone lines, affecting Phases I, II, III, IV, V and VI.

6. Compliance with any local, county, state or federal government law or regulation relative to zoning, subdivision, occupancy, use, construction or deveopment of the subject property affecting Phases I, II, III, IV, V and VI.

2111

ARTICLES OF INCORPORATION

of

ONE TRYON PLACE ASSOCIATION, INC.

The undersigned, by these Articles, do hereby associate themselves for the purpose of forming a corporation not for profit pursuant to Chapter 55A of the North Carolina Statutes; the undersigned parties do further certify that these Articles of Incorporation shall constitute the By-Laws, as that term is defined in Sections 47A-18 and 19, North Carolina General Statutes, as amended as of 1980.

ARTICLE 1
REGISTERED OFFICE AND REGISTERED AGENT

The name of the corporation shall be "ONE TRYON PLACE ASSOCIATION, INC." For convenience, the corporation shall be referred to in this instrument as the Association. Its registered office shall be 100 Jervey Road, Tryon, North Carolina 28782, and its Post Office address is 100 Jervey Road, Tryon, North Carolina 28782, or such other place as the Board of Directors may from time to time designate. The registered agent of the corporation is WILLIAM H. MILLER, whose address is 216 Pacolet Street, Tryon, North Carolina 28782.

ARTICLE 2
PURPOSE

2.1. The purpose for which this Association is formed is to provide for the management and administration of ONE TRYON PLACE ASSOCIATION, pursuant to the requirements set forth in Sections 47A-18 and 19, North Carolina General Statutes, as amended as of 1980, and in accordance with the terms and conditions of the Declaration of Condominium for "ONE TRYON PLACE" which shall be hereinafter recorded in the public records of Polk County, North Carolina, situated upon lands located in Polk County, North Carolina.

2.2. The Association shall make no distributions of income to its members, directors, or officers, except as provided by law.

ARTICLE 3
POWERS

The powers of the Association shall include and be governed by the following provisions, and the provisions of Chapter 47A, of the North Carolina General Statutes as follows:

3.1. The Association shall have all the common-law and statutory powers of a corporation not for profit not in conflict with the terms of these Articles or Chapter 47A, North Carolina General Statutes, or the Declaration of Condominium.

3.2. The Association shall have all of the powers and duties set forth in the Unit Ownership Act, Chapter 47A, North Carolina Statutes, 1980, and

[illegible]IAM H MILLER
P O BOX 1472
[illegible] PACOLET ST
[illegible]YON, N C 28782

2112

the Declaration of Condominium for "ONE TRYON PLACE ASSOCIATION, INC." and all of the powers and duties reasonably necessary to operate the condominium pursuant to that Declaration as it may be amended from time to time, including but not limited to the following:

(a) To make and collect assessments against the members of the Association of Townhouse Condominium Owners as unit owners, to defray the costs, expenses and losses of the Association;

(b) To use the proceeds of assessments in the exercise of its powers and duties as set forth herein;

(c) The maintenance, repair and operation of the condominium common areas and facilities and the authority to enter a particular unit for the purposes of making emergency repairs in connection with the property to be maintained by the Association contained within a unit owner's unit;

(d) The purchase of insurance upon the property and insurance for the protection of the Association and its members as unit owners;

(e) The reconstruction of improvements after casualty and the further improvement of the property, as provided by the Declaration of Condominium, and these Articles of Incorporation;

(f) To make and amend the administratrive rules and regulations governing the details for the operation and use of the common area and facilities of "One Tryon Place Association;"

(g) To enforce by legal means, the provisions of the Unit Ownership Act, Chapter 47A, North Carolina Statutes, the Articles of Incorporation of "ONE TRYON PLACE ASSOCIATION, INC." pursuant to Sections 47A-18 and 19 of the North Carolina General Statutes, as amended as of 1980, and the Declaration of Condominium of "ONE TRYON PLACE" and the administratrive rules and regulations with respect to the use of the common areas and facilities of said condominium;

(h) To contract for the management, operation, repair, replacement and maintenance of the common areas and facilities of said condominium with a third party and to delegate to such contracting party all the powers and duties of this Association except such powers as are specifically required to be exercised by the Association in the Declaration of Condominium, these Articles, and Chapter 47A of the North Carolina General Statutes;

(i) To contract for the management and administration or operation of portions of the common area and facilities susceptible to separate management or administration or operation;

(j) To employ personnel, administrative and otherwise, to perform the services requried for the proper operation of the condominium and to fulfill the duties and obligations of the Association;

(k) To operate and manage its responsibilities in accordance with the Declaration of Condominium for "ONE TRYON PLACE" with the sense, meaning, direction, purpose and intent of the said Declaration of Condominium, as the same may be from time to time amended, and to otherwise perform, fulfill and exercise the duties and privileges, options, rights, obligations and

LIAM H. MILLER
P. O. BOX 1472
-1G PACOLET ST
.YON, N. C. 28782

2113

responsibilities entrusted to or delegated to it by the said Declaration of Condominium.

3.3. All funds and the titles of all properties acquired by the Association and their proceeds shall be held in trust for the members in accordance with the provisions of the Declaration of Condominium, and these Articles of Incorporation.

3.4. The Powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration of Condominium, these Articles of Incorporation, and the provisions of Chapter 47A, North Carolina General Statutes, as amended as of 1980.

ARTICLE 4
MEMBERS

4.1. The members of the Association shall constitute all of the record owners of Condominium units in "ONE TRYON PLACE." The membership after termination of the condominium shall consist of those record owners of condominium units who are members at the time of such termination, and their successors and assigns.

4.2. After receiving approval of the Association required by the Declaration of Condominium for "ONE TRYON PLACE," change of membership in this Association shall be established by recording in the public records of Polk County, North Carolina, a deed or other instrument establishing change in the record title to a unit in said condominium, and the delivery to the Association of a certified copy of such instrument. The owner designated by such an instrument thus becomes a member of this Association, and the membership of the prior record owner is terminated.

4.3. 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 this unit.

4.4. The owner of each unit shall be entitled to cast a vote as a member of this association in the manner and to the extent provided in Article 9.5 of these Articles of Incorporation.

ARTICLE 5
Directors

How many

5.1. The affairs of this Association will be managed by a Board of Directors consisting of the number of directors as determined herein. The numbers of directors shall not be less than three (3) nor more than five (5). Directors need not be members of this Association.

5.2. Directors of the Association shall be elected at the annual meeting of the membership in the manner determined herein. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided hereinafter.

5.3. The first election of the directors shall not be held until after the developer, B.T. DeBORD, of Tryon, North Carolina, has closed all the sales of the units of "ONE TRYON PLACE" Condominium, or until the developer elects to terminate his control of this condominium, whichever occurs first. The directors named in these articles shall serve until the first election of the directors, and any vacancies in their number occurring before the first election shall be filled by the remaining directors.

LIAM H. MILLER
P. O. BOX 1472
/IG PACOLET ST.
TRYON, N. C. 28782

2114

5.4. The name and address of the members of the first Board of Directors who shall hold office until their successors are elected and qualified, or until removed as determined hereunder, are as follows:

B.L. DeBORD	One Tryon Place 100 Jervey Road Tryon, N.C. 28782
ALEX KARR	100 Jervey Road Tryon, N.C. 28782
R. DEAN BUTLER	112 North Trade Street Tryon, N.C. 28782

ARTICLE 6
OFFICERS

The affairs of this Association shall be administered by the officers designated as such herein. The officers shall be elected by the Board of Directors at the first meeting following the annual meeting of the membership of the Association, and shall serve at the pleasure of the Board of Directors. The names and addresses of the officers who shall serve until their successors are elected by the Board of Directors are as follows:

PRESIDENT	B.L. DeBORD	One Tryon Place 100 Jervey Road Tryon, N.C. 28782
VICE-PRESIDENT	WILLIAM H. MILLER	P.O. Box 1472 216 Pacolet Street Tryon, N.C. 28782
SECRETARY-TREASURER	ALEX KARR	100 Jervey Road Tryon, N.C. 28782

The directors and officers may lawfully and properly exercise the powers set forth in Article 3 hereof and Articles 11 and 12 hereinafter set forth, notwithstanding the fact that some or all of them who may be directly or indirectly involved in the exercise of such powers and in the negotiation or consummation of agreements executed pursuant to such powers are some or all of the persons with whom the Association enters into such agreements or who own some or all of the proprietary interest in the entity or entities with whom the Association may enter into such agreements; and all such agreements shall be presumed conclusively to have been made and entered into by the directors and officers of this Association in the valid exercise of their lawful authority.

ARTICLE 7
INDEMNIFICATION

Check.

Every director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding or any settlement of any proceeding to which he may be a party or in which he may become involved by reason of his being or having been a director or officer of the Association, whether or not he is a director or officer of the Association at the time such expenses are incurred, except when the director or officer is adjudged guilty of wilful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

IAM H. MILLER
O. BOX 1472
.6 PACOLET ST.
ON, N. C. 28782

2115

ARTICLE 8
ADMINISTRATIVE RULES AND REGULATIONS

The initial administrative rules and regulationsare appended hereto governing the details of operations of this Association and may be altered, amended, rescinded, or modified in the manner elsewhere provided in these Articles of Incorporation.

ARTICLE 9
MEMBERSHIP MEETINGS

9.1. The annual membership meeting shall be held at the office of the corporation at 10:00 o'clock A.M., Eastern Standard time, on the second Friday in ______________ of each year for the purpose of electing directors and transacting such other business authorized to be transacted by the members; provided, however, that if the day is a legal holiday the meeting shall be held at the same hour on the next day that is not a holiday.

9.2. Special meetings shall be held when called by a majority of the Board of Directors or when the President or Vice-President receives a written request from members owning fifty percent (50%) or more of the common areas and facilities as designated with respect to their units in the Declaration of Condominium.

9.3. Notice of all Members Meetings: Notice of all members meetings stating the time and place and the object for which the meeting is called shall be given by the President, 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 notice shall be given by affidavit by the person giving the notice. Notice of the meeting may be waived before or after the meetings.

9.4. Quorum: A quorum at members' meetings shall consist of a majority of the unit owners as that term is defined in Section 47A-3(8) of the North Carolina General Statutes, 1980. If a quorum is present, the acts approved by a majority of the votes present at such a meeting, shall constitute the acts of the members except when approval by a greater percentage of the members is required by the Delcaration of Condominium for One Tryon Place, these Articles of Incorporation or the Unit Ownership Act. A majority of the quorum shall be members having not less than fifty-one percent (51%) of ownership of the common areas and facilities of the quorum present at such a meeting of the members.

9.5. Voting Rights: Each member of the Association shall exercise a voting power on all matters equal to such member's undivided ownership interest in the common areas and facilities as set forth in the Declaration of Condominium.

9.6. Designation of Voting Representative: 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 case 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 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 certificates 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 an unit may be revoked by any owner of an unit. If such a certificate is not on file, the vote of such owners shall not be considered in determining the requirement for a quorum nor for any other purpose.

LIAM H. MILLER
P. O. BOX 1472
16 PACOLET ST
TRYON, N. C. 28782

2116

9.7. Proxies: - Votes may be cast in person or by proxy. A proxy may be made by any person entitled to vote and shall be valid only for the particular meeting designated in the proxy and must be filed with the secretary before the appointed time of the meeting or any adjournment of the meeting.

9.8. Adjourned Meetings: If any meeting of members cannot be organized because of a quorum has not attended, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.

9.9. Order of Business: The order of business at annual members' meetings and as far as practical at other members' meetings, shall be:

a. Installation of Chairman of the Meeting
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 inspectors of election
h. Election of directors
i. Unfinished business
j. New business
k. Adjournment

9.10. Proviso: Provided, however, that until the developer of this Condominium has completed all of the contemplated improvements and closed the sales of all the units in ONE TRYON PLACE, or until the Developer elects to terminate his control, whichever shall first occur, the proceedings of all meetings of members of the Association shall have no effect unless approved by the Board of Directors.

must have directors & officers before turning over to Hay

ARTICLE 10
Board of Directors

10.0. Election of Board of Directors:

10.1. Election of Directors: The election of directors shall be conducted in the following manner:

(a) Election of directors shall be held at the annual member's meeting;

(b) A nominating committee of five (5) members shall be appointed by the Board of Directors not less than thirty (30) days prior to the annual members' meeting. The committee shall nominate one (1) person for each director then serving. Nominations for additional directorships created at the meeting shall be made from the floor, and other nominations may be made from the floor;

(c) The election shall be by written ballot (unless dispensed by unanimous consent) and by a plurality of the percentage case, each member voting being entitled to cast his votes for each of as many nominees as there are vacancies to be filled. There shall be no cumulative voting;

(d) Except as to vacancies arising from removal of directors by members, vacancies in the board of directors occurring between annual meetings of members shall be filled by the remaining directors.

How many directors? pg. 3

AM H. MILLER
O. BOX 1472
PACOLET ST.
ON, N. C. 28782

2117

10.2. Removal of Directors: Any director may be revomed by concurrence of the members owning eighty-five percent (85%) of the common areas and facilities 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.

10.3. Term of Directors: The term of each director's service shall extend until the next annual meeting of the members and subequently until his successor is duly elected and qualified or until he is removed in the manner elsewhere provided.

10.4. Organization Meeting: The organization meeting of a newly-elected Board of Directors shall be held within ten (10) days of their election at such place and time as shall be fixed by the directors at the meeting at which they were elected, and no further notice of the organization meeting shall be necessary.

10.5. Regular Meetings of Directors: The 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 give to each director, personally or by mail, telephone or telegraph, at least three (3) days prior to the day named for such meeting.

10.6. Special Meetings of Directors: Special meetings of the Board of Directors may be called by the president and must be called by the secretary at the writeen request of one-third (1/3) of the directors. Not less than three (3) days' notice of the meeting shall be given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting.

10.7. Waiver of Notice of Directors Meetings: 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.

10.8. Quorum of Directors. 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 Direcotrs, except when approval by a greater number of directors is required by the Declaration of Condominium, the Articles of Incorporation or by the Unit Ownership Act, Chapter 47A, North Carolina General Statutes, as amended as of 1980.

10.9. Adjourned Meetings of Directors: If at any meeting of the Board of Directors there be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present.

10.10. Joinder in Minutes of Meeting by Directors: The joinder of a director in the action of a meeting of the Board of Directors by signing and concurring with the minutes of that meeting shall constitute the presence of such director for the purpose of determining a quorum.

10.11. Presiding Offier at Directors' Meetings: The presiding officer of a director's meeting shall be the Chairman of the Board if such an officer has been elected; and if none, the president shall preside. In the absence of the presiding officer, the directors present shall designate one of their number to preside.

10.12. Order of Business at Directors' Meetings: The order of business at director's meetings shall be:

a. calling of roll
b. proof of due notice of meeting

LIAM H. MILLER
P. O. BOX 1472
16 PACOLET ST.
TON, N. C. 28782

2118

c. reading and disposal of any unapproved minutes
d. reports of officers and committees
e. election of officers
f. unfinished business
g. new business
h. adjournment

10.13. Director's fees: Director's fees, if any, shall be determined by the members.

ARTICLE 11

11.1. Powers and Duties of the Board of Directors: All of the powers and duties of the Association existing under the Unit Ownership Act, the Declaration of Condominium, and these Articles of Incorporation and shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject only to approval by the membership when such is specifically required.

11.2. Assessments: To make and collect assessments against members to defray the costs and expenses of the condominium properties, the Board may allocate or apportion to particular buildings such costs and expenses as may be appropriate; and may make special assessments consistent with such allocations or apportionment.

11.3. Disbursements: To use the proceeds of assessments in the exercise of its powers and duties.

11.4. Maintenance: To maintain, repair, replace and operate the condominium properties including common areas and facilities.

11.5. Insurance: To purchase insurance upon the condominium properties and insurance for the protection of the Association and its members.

11.6. Reconstruction: To reconstruct improvements after casualty and further improve the condominium properties.

11.7. Regulations: To make and amend reasonable administrative rules and regulations respecting the use of the property in the condominium in the manner provided by the Declaration of Condominium. Such administrative rules and regulations of the Association, until amended, shall be as set forth in the Schedule attached hereto.

11.8. Management Contract. To contract for management of ONE TRYON PLACE and to delegate to the contractor all powers and duties of the Association except such as are specifically required by the Declaration of Condominium these Articles of Incorporation or the Unit Ownership Act to be exercised by the Board of Directors or the membership of the Association.

11.10. Enforcement: To enforce by all available legal means the provisions of the Unit Ownership Act, the Declaration of Condominium, the Articles of Incorporation, the Administrative Rules and Regulations and all amendments thereto.

11.11. Purchase Units: To purchase units in the condominium in accordance with the provisions of the Declaration of Condominium.

LIAM H. MILLER
P. O. BOX 1472
16 PACOLET ST.
YON, N. C. 28782

2119

ARTICLE 12
Officers

12.1. Executive Officers: The executive officers of the Association shall be a president, who shall be a director, a vice-president, who shall be a director, a treasurer and secretary all of whom shall be elected annually by the Board of Directors and who may be peremptorily removed by the vote of the directors at any meeting. Any person may hold two or more offices except as prohibited by law. The Board of Directors from time to time shall elect other officers and designate their powers and duties as the board shall find to be necessary or desirable to manage the affairs of the Association.

12.2. President: The president shall be the chief executive officer of the Association. He shall have all the powers and duties usually vested to the office of president of an association, including but not limited to the power to appoint committees from among the members from time to time, as he in his discretion may determine appropriate, to assist in the conduct of the affairs of management of the association, to hire and fire all personnel in connection with the administrative maintenance, repair and replacement of common areas and facilities. He shall also preside at all meetings of the membership

12.3. Vice-President: The vice-president in the absence or disability of the president shall exercise the powers and perform the duties of the president. He also shall assist the president generally and exercise such other powers and perform such other duties as shall be prescribed by the directors. He shall preside at meetings of the membership in the absence of the president.

12.4. Secretary: The secretary shall keep the minutes of all proceedings of the directors and the members. He shall attend to the giving and serving of all notices to all members and directors and other notices required by law. He shall have custody of the seal of the Association and affix it to instruments requiring a sel when duly signed. He shall keep the records including the Minute Book wherein resolutions shall be recorded of the Association, and shall perform all other duties incident to the office of secretary of an association and as may be required by the directors or the president. The assistant secretary shall perform the duties of the secretary when the secretary is absent.

12.5. Treasurer: The treasurer shall have custody of all property of the assiciation, including funds, securities and evidences of indebtedness. He shall keep the books of the association in accordance with good accounting practices; and he shall perform all other duties incident to the office of treasurer, such as approval of payment vouchers for common expenses of the association.

12.6. Compensation: The compensation of all officers and employees of the Association shall be fixed by the directors. The provision that directors' fees shall be determined by members shall not preclude the Board of Directors from employing a director as an employee of the Asosciation nor preclude the contracting with a director, or an entity in which a director is interested for the management of the condominium.

ARTICLE 13
Fiscal Management

The provisions for fiscal management of the Association set forth in the Declaration of Condominium shall be supplemented by the following provisions:

13.1. Accounts: The receipts and expenditures of the Association shall be credited and charged to accounts under the following classification as shall

M H. MILLER
O. BOX 1472
PACOLET ST.
N. C. 28787

2120

be appropriate, all of which expenditures shall be common expenses:

a. Current expense, which shall include all receipts and expenditures within the year for which the budget is made including a reasonable allowance for contingencies and working funds, except expenditures chargeable to reserves, to additional improvements or to operation. The balance in this fund at the end of the year shall be applied to reduce the assessments for current expenses for the succeeding year;

b. Reserve for deferred maintenance, which shall include funds for maintenance items that occur less frequently than annually;

c. Reserve for replacement, which shall include funds for repair or replacement required because of damage, depreciation or obsolescence;

d. Betterments, which shall include the funds to be used for capital expenditures for additional improvements or additional personal property that will be part of the common areas and facilities.

13.2 Method of Approving Payments: One officer of the Association shall approve all payment vouchers for common expenses for the maintenance, repair, management and replacement of common areas and facilities.

13.3 Budget: The Board of Directors shall adopt a budget for each calendar year that shall include the estimated funds required to defray the common expense and to provide and maintain funds for the foregoing accounts and reserves according to good accounting practices as follows:

a. Current expense, the amount for which shall not exceed fifteen percent (15%) of the budget for this account for the prior year;

b. Reserve for deferred maintenance, the amount of which shall not exceed ten percent (10%) of the budget for this account for the prior year;

c. Reserve for replacement, the amount for which shall not exceed ten percent (10%) of the budget for this account for the prior year;

d. Provided, however, that the amount for each budgeted item may be increased over the foregoing limitations when approved by the membership as provided in the Declaration;

e. Copies of the budget and proposed assessments shall be transmitted to each member on or before December 15 preceding the year for which the budget is made. If the budget is amended subsequently, a copy of the amended budget shall be furnished to each member.

Reserve 10.00 mo. [illegible] [illegible] was dropped from 85 [illegible] [illegible] cable + reserve.

13.4 Assessments: Assessments against the unit owners for their shares of the items of the budget shall be made for the calendar year annually in advance on or before December 15 preceding the year for which the assessments are made. The annual assessments shall be paid to the Regime in equal monthly installments on or before the first day of each month during any assessment period as provided in Article VIII of the Declaration. 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 and shall be payable in monthly installments until changed by an amended assessment. In the event

LIAM H. MILLER
P. O. BOX 1472
216 PACOLET ST.
TRYON, N. C. 28782

the annual assessment proves to be insufficient, the budget and assessments may be amended as provided in the Declaration.

13.5. Assessments for rents during Foreclosure: The Association shall have a lien for unpaid assessments as provided by the Declaration of Condominium, these Articles of Incorporation and the Unit Ownership Act. In the event a lien for unpaid assessments is foreclosed, the unit owner shall be required to pay a reasonable rental for his unit during the time of foreclosure.

13.6. Acceleration of Assessment Installments Upon Default: 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 to the unit owner, and then the unpaid balance of the assessment shall come due upon the date stated in the notice or as stated in the Declaration.

13.7 Assessments for Emergencies: Assessments for common expenses of emergencies that cannot be paid from the annual assessments for common expenses shall be made only after notice of the need for such is given to the unit owners concerned. After such notice, said assessment may be approved as provided in Article VIII of the Declaration.

13.8. Bank Depository: 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.

13.9 Audits. An audit of the accounts of the Association shall be made at least once a year by an outside auditor who shall be a Certified Public Accountant and a copy of the audit report shall be furnished to each member not later than May 1 of the year following the year for which the audit is made.

13.10. Fidelity Bonds: Fidelity bonds shall be required by the Board of Directors from all persons handling or responsible for Association funds. The amount of such bonds shall be determined by the directors, but shall be not less than TEN THOUSAND DOLLARS ($10,000). The premiums on such bonds shall be paid by the Association.

ARTICLE 15

Parliamentary Rules

Robert's Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Declaration of Condominium, these Articles of Incorporation, or the Unit Ownership Act.

ILLIAM H. MILLER
P. O. BOX 1472
216 PACOLET ST.
TRYON, N. C. 28782

2122

ARTICLE 16
Amendments

These Articles of Incorporation may be amended in the following manner:

16.1. Notice of Amendment to Articles of Incorporation: Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.

16.2. Proposal and Adoption of Amendments: 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 meeting 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 either in the Declaration of Condominium, these Articles of Incorporation, or the Unit Ownership Act, such approval must be by:

a. Votes cast by members approving the amendment who own not less than eighty-five percent (85%) of the common areas and facilities.

16.3. No amendment to these Articles of Incorporation shall be binding until the said Amendment has been passed in accordance with the Declaration of Condominium, these Articles of Incorporation or the Unit Ownership Act and that the said Amendment as passed has been duly recorded as an amendment to the Declaration of Condominium, and these Articles of Incorporation, in the proper records of Polk County, North Carolina.

16.4. All unit owners and their grantees shall be bound by the terms and conditions of the Declaration of Condominium, by these Articles of Incorporation and by the administrative rules and regulations for this condominium, and the provisions of the Unit Ownership Act as the same may be amended from time to time.

ARTICLE 17
Term

The term of the Association shall be perpetual unless all the condominiums comprising it are terminated and in the event of such termination, the Association shall be dissolved in accordance with the Unit Ownership Act.

ARTICLE 18

18.1. The definitions contained in the Unit Ownership Act are hereby adopted to the extent that such definitions are applicable to these Articles of Incorporation and the Declaration of Condominium for this condominium.

18.2. The term "Developer" means B.L. DeBORD.

18.3. The term "condominium properties" means each building, each condominium unit, each apartment space, and common area and facilities located at ONE TRYON PLACE.

ARTICLE 19
Incorporators

The names and addresses of the Incorporators of the Articles of the Articles of Incorporation are as follows:

IAM H. MILLER
O. BOX 1472
16 PACOLET ST.
YON, N. C. 28782

2123

B.L. DeBord	One Tryon Place 100 Jervey Road Tryon, N.C. 28782
WILLIAM H. MILLER	216 Pacolet Street Tryon, N.C. 28782
DORIS F. PETTY	216 Pacolet Street Tryon, N.C. 28782

IN WITNESS WHEREOF, the incorporators have hereunto set their hands and seals this________day of October, 1981.

________________________________(SEAL)
B.L. DeBORD

________________________________(SEAL)
WILLIAM H. MILLER

________________________________(SEAL)
DORIS F. PETTY

STATE OF NORTH CAROLINA

COUNTY OF POLK

BEFORE me, the undersigned authority, personally appeared B.L. DeBORD, WILLIAM H. MILLER and DORIS F. PETTY, who after being first duly sworn, acknowledged that they executed the foregoing Articles of Incorporation for the purposes exprssed in such Articles, this_____day of_____________, 1981.

______________________________N.P.(SEAL)

My commission expires:
____

-LIAM H. MILLER
P. O. BOX 1472
216 PACOLET ST
RYON, N. C 28782

1. Vestibules, halls, stairways, and other condominium areas and facilities of a similar nature must remain unobstructed, and shall be used only for purposes of normal transit.

2. Vestibules, hallways, stairways, and other condominium areas and facilities of a similar nature shall not be used for storage or placement of any furniture, packages , or objects of any kind.

3. Children shall not be permitted to loiter or play in the vestibules, hallways, stairways, and other condominium areas and facilities of a similar nature.

4. Hanging, cleaning, or beating garments, rugs, or the like from or on the windows, terraces, or facades of the building, or in the vestibules, hallways, stairways, or other condominium areas of a similar nature is prohibited.

5. Throwing garbage or trash outside disposal installations provided for such purposes is prohibited.

6. All damage to common elements caused by the moving or carrying of articles therein shall be the responsibility of, and shall be paid for by the owner or person in charge of such articles.

7. No owner, occupant, or licensee shall post their names, or any other notice in any vestibule, hallway, stairway or other condominium area except in places provided therefor.

8. Units shall be occupied and used by their respective owners only as private dwellings for such owners, their families, tenants, and social guests, and for no other purposes whatsoever.

9. No portion of a unit other than the entire unit may be rented, and no unit may be rented for hotel or transient purposes.

10.Residents shall exercise extreme care about making noises or playing music which may disturb other residents.

11.Owners shall not permit or suffer anything to be done or kept in their units which would increase the rate of fire insurance thereon or on the condominium as a whole.

12.No owner, lessee, or licensee shall install wiring for electrical or telephone installation, television antenna,machines, or air conditioning units or the like on the exterior of the project, or which would protrude through the walls or the roof of the project except as authorized by Board of Directors.

13.Each unit owner shall promptly perform all maintenance and repair within his own unit, which if omitted would affect any common elements, and portion of the property belonging to other owners, or the project as a whole, and each unit owner shall be responsible for all damages and liabilities that any failure to maintain or repair may engender.

14.No immoral, improper, offensive, or unlawful use shall be made of condominium property or any part thereof, and each unit owner, at his own expense, shall comply with, perform, and fully satisfy all city, state and federal laws, statutes, ordinances, regulations, ... affecting his unit.

2125

EXHIBIT D

Site Plan and Plans of Buildings and Units for ONE TRYON PLACE.

The Plat of Survey for ONE TRYON PLACE, Phase I - Phase VI, dated June 18, 1982, prepared by Wolfe & Huskey, Inc., Engineering and Surveying, entitled, "Bernie DeBord," and consisting of one (1) sheet, designated as Sheet 1, and the plans of the buildings and units by Albert B. Jolly, Jr., AIA, entitled, "ONE TRYON PLACE PROPERTIES - Floor Plans" and "ONE TRYON PLACE PROPERTIES - as Built Elevations and Section," and unit plans by Anton Cedervall, AIA, untitled, and consisting of five (5) sheets, designated as Sheets 2 - 6, all of which Plans are incorporated within this Declaration at the time it was filed for record are duly filed in the office of the Register of Deeds for Polk County in the Unit Ownership File and is properly indexed in said File as by law required.