

STATE OF ALABAMA )

COUNTY OF BALDWIN )

DECLARATION OF CONDOMINIUM  
OF

SEA HORSE, A CONDOMINIUM

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THIS DECLARATION, made this 14th day of October 1982, by JOE R. PULLEN and MARTHA C. PULLEN, herein called DEVELOPERS, for themselves, their successors, grantees and assigns,

WHEREIN, the DEVELOPER makes the following declarations:

WHEREIN, Developer is the fee simple owner of certain real property situated in the County of Baldwin and State of Alabama, described as follows:

Lots 1 and 34, Block 2, Lagoon Estates as per plat thereof recorded in Map Book 4, Pages 130-131, in the Office of the Judge of Probate, Baldwin County, Alabama.

WHEREAS, DEVELOPER intends to improve the above property by construction there five (5) two-story buildings, containing four (4) apartment units and one (1) two-story building containing three (3) apartment units, to be known as SEA HORSE the same to be constructed substantially in accordance with the plans and specifications therefor prepared by PERRY HAND ENGINEERING AND SURVEYING, INC., which are made a part hereof, which said land and improvements are to be legally created as a condominium property by and through this Enabling Declaration; and

WHEREAS, DEVELOPER proposes to establish by this Declaration a plan for the individual ownership of the area or space contained in the Apartment Units in said structure and the co-ownership by the individual and separate owners thereof, as tenants in common, of all the remaining real property which is hereinafter defined and referred to as the "common areas and facilities."

NOW THEREFORE, the DEVELOPER hereby makes the following declaration as to the division to which said real property and improvements thereon may be put, hereby specifying that said Declaration shall constitute covenants to run with the land and shall be binding upon DEVELOPER, their successors and assigns, and all subsequent owners of all or any part of said real property and improvements, together with their grantees, successors, heirs, executors, administrators, devisees and assigns:

1. Purpose. The purpose of this Declaration is to submit the land hereinafter described and the improvements to be constructed thereon to the condominium form of ownership and use in the manner provided by the Condominium Ownership Act of Alabama, Act N. 1059, 1973 Regular Session, Alabama Legislature, (1975 Code of Ala. 35-8-1, et seq.). It is understood that the Developer will make available this declaration, the By-Laws of the Association and the attached plans to prospective buyers and Unit Owners, and will deliver to the Mortgagees of the Condominium project these documents along with the other necessary documents concerning the condominium.

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2. Name. The name by which this condominium is to be identified is SEA HORSE, a Condominium.

3. The Land. The land owned by the DEVELOPER which is hereby submitted to the condominium form of ownership is the following described land situate, lying and being in Gulf Shores, Baldwin County, Alabama, to-wit:

Lots 1 and 34, Block 2, Lagoon Estates as per plat thereof recorded in Map Book 4, Pages 130-131, in the office of the Judge of Probate, Baldwin County, Alabama.

4. Definitions. The terms used herein and in the By-Laws shall have the meanings stated in the Condominium Ownership Act of Alabama, and as follows:

(a) "Unit" means an apartment, and includes the private elements thereof, together with the undivided interests in the common elements which are assigned thereto.

(b) "Unit Owner" means the owner of an apartment, whether singly or jointly, partnership, corporation or other legal entity of the successors, heirs, administrators, executors or assigns, or the heirs or assigns of the survivor, as the case may be.

(c) "Association" means the SEA HORSE CONDOMINIUM ASSOCIATION, and its successors, and is the association of Unit Owners referred to in said Act.

(d) "Common Elements" means common areas and facilities including but not limited to all parts of the condominium property not included within the unit boundaries as described in Paragraph 6.5 hereinafter, and shall include the utility spaces, and the tangible personal property required for the maintenance and the operation of the condominium as well as the items stated in the Condominium Ownership Act of Alabama.

(e) "Common Expenses" includes those as defined in said Act, together with the expenses for which Unit Owners are liable to the Association, actual or estimated.

(f) "Utility Services" shall include but not be limited to electrical power, water, garbage and sewage disposal.

(g) "Substantial Destruction, Deterioration or Obsolescence" shall mean such destruction or deterioration or obsolescence that the condominium has lost its character as a residential development, and restoration thereof would be the practical equivalent of a newly constructed development.

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(h) "Development" comprehends the land, and all buildings, improvements and property which are a part of the condominium.

(i) "Declaration" means this Declaration and all amendments thereto hereafter made.

5. Development Plan.

1. Plans. The improvements will be constructed by the DEVELOPER substantially in accordance with the plans and specifications therefor prepared by Perry Hand Engineers, Inc. which plans are identified as Exhibit 1, hereto attached and by reference made a part hereof, consisting of 14 pages, including a set of the floor plans of the buildings showing the lay-out, location, the designating numbers of each unit in each building, which said buildings have no names but are designated by number.

2. Amendment of Plans. This Declaration may be amended by the filing of such additional plans as may be required to accurately describe the improvements of the condominium and in order to show completion of improvements. Such completion may be shown by a verified statement of a registered architect or licensed professional engineer certifying that the completed improvements have been constructed substantially as herein represented or, if not so constructed, then designating the changes made, and certifying that the plans theretofore filed, or being filed simultaneously with such certificates, fully and accurately depict the lay-out, location, apartment numbers and dimensions of the units as built. Such plans, or certificate, or both, when signed and acknowledged by such registered architect or licensed professional engineer, and by the DEVELOPER, shall constitute an amendment to this Declaration without approval of the Association, unit owners, lessees or mortgagees of units of the condominium, whether or not elsewhere required for an amendment.

3. Easements. Easements are reserved throughout the condominium property as may be required for utility services in order to adequately serve the condominium; provided, however, such easements to a unit shall be only in accordance with the plans and specifications for the buildings or as the buildings are constructed, unless approved in writing by the unit owner. Each unit owner shall have an easement in common with the owners of all other units to use all pipes, wires, ducts, cables, conduits, public utility lines and other common elements located in any of the other units and serving his unit. Each unit shall be subject to an easement in favor of the owners of all other units to use the pipes, ducts, cables, wires, conduits, public utility lines and other common elements serving such other units and located in such unit. The Association shall have a right to access to each unit to inspect the same, to remove violations therefrom and to maintain, repair or replace the common elements contained therein or elsewhere in the building.

4. Access. Each unit has a right to access to a public street, or highway, that is to say, to Highway 182 and West 13th Street, Baldwin County, Alabama, upon and over common elements providing such access all as shown upon the site plan (Exhibit 1, Page 1, hereto attached). The immediate common elements by which each unit has access to such public street or highway are (i) the concrete walkways running along the face of the buildings and the grounds, and (ii) the parking areas, driveways and streets all as shown upon the site plan, (Exhibit 1, Page 1, hereto attached).

## 6. Descriptions.

1. Improvements and Principal Materials of Which Constructed. The improvements to be constructed upon the land will include and will be limited to five (5) two-story buildings containing four (4) apartment units, and one (1) two-story building containing three (3) apartment units. The condominium will also include storage space for each unit, gardens and landscaping, parking areas, and other facilities located substantially as shown in the plans and drawings. Construction of the buildings shall be as follows:

(a) Excavation shall be performed such that adjacent properties are not damaged by any activity related to the work and taking adequate precautions to avoid settlements or cave-in of properties lower than site; silting, eroding or other damages to properties lower than site; backfill as required shall meet existing codes and ordinances.

(b) Foundations shall be pressure treated wood piling.

(c) Exterior wall shall be wood frame with reverse board and batten cedar siding.

(d) Interior wall shall be wood studs 16" o.c. with gypsum board sheathing spackled and trowelled smooth to accept paint or wall covering.

(e) Floors shall be five-eighths inch (5/8) C.D.X. Plywood over 2 x 10 wood framing. Finish should accept carpet and pad or sheet vinyl.

(f) Roof framing shall be premanufactured trusses with some additional on site framing. Sheathing shall be 5/8" plywood over trusses set 2'-0" o.c. Roofing shall be 230#-240# Class "A" asphalt shingles with self sealing weather edge, color to be selected by Architect. Roofing shall be placed over 15# asphalt impregnated felts. Metal flashing and trim shall be 22 ga. galvanized iron.

(g) Interior doors shall be 1 3/8" thick hollowcore flush wood doors. Entry door shall be 1 3/4" thick metal clad insulated door. Sliding glass doors shall be aluminum frames with tempered insulated glazing.

(h) Windows shall be anodized aluminum frames with insulated glazing.

(i) Millwork shall consist of cabinets and counter tops in kitchen areas, wood base and door/window trim as required. Plastic laminate tops shall be used on all cabinet work in kitchen areas and bath rooms.

(j) Stairs shall be wood frame 2 x 12 stringer with 2 x 12 treads and 2 x 8 risers.

(k) Plumbing fixtures shall be standard residential fixtures. Plumbing fixtures shall include water closets, lavatories, tubs, and sinks.

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(l) HVAC shall be electric and sized to provide year round comfort and meet local codes and ordinances.

(m) Electrical requirements shall be designed to meet local codes and ordinances. Appliances shall be all electric and include, but not be limited to range, oven, and refrigerator-freezer.

(n) Thermal insulation shall be minimum R-26 in ceiling and R-13 in walls.

2. Private Elements. The description and location of the private elements and the appurtenances thereto are determined with the aid of the plans therefor, attached hereto, and as follows:

(a) Units Numbered. Each unit is assigned a number which is indicated on the plans hereto attached.

(b) Changes. The DEVELOPER reserves the right to change the interior design and arrangement of all units so long as the DEVELOPER owns the unit so altered.

(c) All units have approximately seven hundred twenty-four (724) square feet of living area, including living area, kitchen, two bedrooms, one bath, closets and one (1) balcony on all units. Each unit shall be equipped with range, hot water heater, air conditioning and heating units, except for Unit No. 1 which has 1,448 square feet.

3. Common Elements. The common elements of the condominium will include the common areas and facilities located substantially as shown upon the plans attached hereto marked Exhibit 1. Such facilities will include the following improvements:

(a) The land described in Paragraph 3(a) above.

(b) All central and appurtenant installations for services such as power, light, telephone, sewer, storm drains, and water; TV cables; heat and air conditioning, including all pipes, ducts, wires, cables and conduits used in connection therewith, whether located in common areas or in units, and all utility and mechanical equipment, buildings and spaces, which are not used or reserved for the exclusive use of certain units.

(c) Automobile parking spaces.

(d) All outdoor and exterior lights, excepting such as are in a balcony assigned to the exclusive use of a unit.

(e) Attic space.

(f) All foundations, columns, girders, beams and supports of buildings, and such component parts of walls, roofs, floors and ceilings as are not located within the units.

(g) Lawn areas, landscaping, streets and walkways.

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(h) Balconies assigned to the exclusive use of the units to which appurtenant.

(i) All tanks, pumps, wells, motors, fans, compressors and control equipment, fire fighting equipment, and garbage equipment which are not reserved for the use of certain units.

(j) All other parts of the development existing for the common use or necessary to the existence, maintenance and safety of the development.

(k) All other items listed as such in the Condominium Ownership Act of Alabama, Act No. 1059, 1973 Regular Session, Alabama Legislature, and located on the property.

4. Limited Common Elements. There are no limited common elements.

5. Automobile Parking. Each apartment unit shall have exclusive use of its own parking space for one (1) automobile. Additional parking spaces will be available for use according to regulations of the Association.

6. Unit Boundaries. Each unit shall include that part of the building containing the unit which lies within the boundaries of the unit, which boundaries shall be determined in the following manner:

(a) Horizontal Boundaries. The upper and lower boundaries of each unit shall be:

(i) Upper Boundary. The plane of the under surface of the ceiling joists.

(ii) Lower Boundary. The upper surface of the floor joists.

(b) Vertical Boundaries. The vertical boundaries of the units shall be:

(i) The plane of the inside surfaces of the studs which are the component parts of exterior walls and of interior walls separating an apartment unit from other apartment units.

7. Surfaces. An owner shall not be deemed to own the studs and structural components of the perimeter walls and/or of load-bearing walls, nor the windows and doors bounding the unit, nor carports covering automobile parking spaces assigned to the exclusive use of the unit. An owner, however, shall be deemed to own and shall have the exclusive right and duty to repair and maintain, paint, repaint, tile, wax, paper or otherwise finish and decorate the surfacing materials on the interior of exterior walls and on interior walls separating an apartment unit from other apartment units, and the surfacing materials of the floors of his unit, and the interior surfaces of the balcony area assigned to the exclusive use of his unit; all window screens; and all appurtenant installations, including all pipes, ducts, wires, cables and conduits used in connection therewith, for services such as power, light, telephone, sewer, water, heat and air conditioning, and TV, whether located in the boundaries of the unit or in common areas, which are for the exclusive use of the unit; and all ceilings and partition walls.

8. Balconies. A valid exclusive easement is hereby declared and established for the benefit of each unit and its owner consisting of the right to use and occupy the balcony serving the unit.

7. Determination of Percentages of Ownership in Common Elements, Common Expenses and Common Surplus. There are 23 units in the condominium, each of approximately the same size, except Unit No. 1, which contains 1,448 square feet, and which shall be counted as two units, and the undivided interest assigned to each unit in the common elements shall be equal, that is, one twenty-fourth (1/24), and the common expenses shall be charged to and the common surplus shall be distributed among the unit owners equally, that is, one twenty-fourth (1/24) to each unit. The common surplus shall be a trust fund for the unit owners and shall be either distributed among the unit owners according to the respective percentages of the undivided interests of the respective units in the common elements or applied against the following year's assessment, unless otherwise determined by the Board of Directors of the Association which shall not in any event use such surplus or any part thereof in any way other than to furnish services, goods or other items of value to the unit owners.

8. Encroachments. If any portion of the common elements now encroaches upon any unit, or if any unit now encroaches upon any other unit or upon any portion of the common elements, as a result of the construction of any building, or if any such encroachment shall occur hereafter as a result of settling or shifting of any building, a valid easement for the encroachment and for the maintenance of the same so long as such building stands shall exist. In the event any building, any unit, any adjoining unit, or any adjoining common element shall be partially or totally destroyed as a result of fire, or other casualty or as a result of condemnation or eminent domain proceedings, and then rebuilt, encroachments of parts of the common elements upon any unit or of any unit upon any other unit or upon any portion of the common elements, due to such rebuilding, shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as such building shall stand.

9.1. Units Subject to Declaration, By-Laws and Rules and Regulations. All present and future owners, tenants and occupants of unit shall be subject to, and shall comply with the provisions of this Declaration, the By-Laws and the Rules and Regulations, as they may be amended from time to time. The acceptance of a deed or conveyance or the entering into of a lease or the entering into occupancy of any unit shall constitute an agreement that the provisions of this Declaration, the By-Laws and the Rules and Regulations, as they may be amended from time to time, are accepted and ratified by such owner, tenant, and occupant, and all of such provisions shall be deemed and taken to the covenants running with the land and shall bind any person having at any time any interest or estate in such unit, as though such provisions were recited and stipulated at length in each and every deed or conveyance or lease thereof.

.2. Exclusive Ownership. Each owner shall be entitled to exclusive ownership and possession of his unit. Each owner shall be entitled to an undivided interest in the common elements in the percentages expressed in this Declaration, which percentages of undivided interest of each owner shall have a permanent character

and shall not be altered without the consent of all owners expressed in an amended Declaration duly recorded. The percentage of the undivided interest in the common elements shall not be separated from the unit to which it appertains and shall be deemed to be conveyed or encumbered or released from liens with the unit even though said interest is not expressly mentioned or described in the conveyance or other instrument. Each owner may use the common elements in accordance with the purposes for which same are intended, without hindering or encroaching upon the lawful rights of others.

.3. Enforcement. Failure of any owner to comply strictly with the provisions of this Declaration, the By-Laws, and the Rules and Regulations, shall be grounds for an action to recover sums due, or damages, or injunctive relief or any or all of them. Such actions may be maintained by the Association on its own behalf or on behalf of the unit owners aggrieved. In any case of flagrant or repeated violation by a unit owner, he may be required by the Association to give sufficient surety or sureties for his future compliance with the provisions of this Declaration, the By-Laws, and the Rules and Regulations. Nothing herein contained shall prevent, in a proper case, an independent action by an aggrieved unit owner for such relief.

10. MANAGEMENT AGREEMENT. Any management agreement for the project will be terminated by the Owners Association for cause upon thirty (30) days written notice thereof by a vote of not less than a majority of the individual Unit Owners other than the Developer within a one (1) year period immediately following the date on which individual Unit Owners, other than the Developer, assume or acquire control of the Association, and shall further be terminable without cause by a vote of not less than the majority of the individual Unit Owners, other than the Developer, within a thirty (30) day period immediately following the date on which the individual Unit Owners, other than the Developer, assume or acquire control of the Association upon not less than ninety (90) days written notice to the Management Agent, and the term of such agreement may not exceed one (1) year; however, such agreement may be renewable by the parties for successive one (1) year periods.

11. Maintenance. The responsibility for the maintenance of the condominium property shall be as follows:

.1. Units

(a) By the Association. The responsibility of the Association shall be as follows:-

(i) To maintain, repair and replace all portions of a unit, except interior surfaces and surfacing materials, contributing to the support of the building, which portions shall include but not be limited to the outside walls of the building and all fixtures thereof; and boundary walls of units, floors, load-bearing columns and load-bearing walls.

(ii) To maintain, repair and replace all conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services which are contained in the portions of a unit

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maintained by the Association, and all such facilities contained within a unit which service part or parts of the condominium other than the unit within which contained.

(iii) Association will be required to establish and maintain an adequate reserve fund for the periodic maintenance of repair and replacement of improvements in common areas and those limited common areas which Association may be obligated to maintain. Funds shall be maintained out of regular assessments for common expenses as required by the by-laws of the association.

(iv) A working capital fund is also established at the commencement of the project. Each Unit's share of the working capital shall be collected and transferred to the Association at the time of closing of each Unit and maintained in a segregated account for use and benefit of the Association. Contribution to the working capital fund for each unit unsold shall be paid to the Association within 60 days after the conveyance of the first unit estate of the legal phase of project.

(v) To repair all incidental damage caused to a unit in the performance of any of the foregoing work.

(vi) The association shall establish and maintain an adequate reserve fund for the periodic maintenance repair and replacement of improvements to the common areas and those limited common areas which the association is obligated to maintain. The fund shall be maintained out of regular assessment for common expenses.

(b) By the Unit Owner. The responsibility of the Unit Owner shall be as follows:

(i) To maintain, repair and replace all portions of his unit except the portion to be maintained, repaired and replaced by the Association. Such shall be done without disturbing the rights of other unit owners.

(ii) Not to paint or otherwise decorate or change the appearance of any portion of the exterior of the building and/or the exterior of the balcony area assigned to the exclusive use of the unit owner.

(iii) Each unit owner (except the Developer, upon acquisition of a unit shall be required to pay in advance a sum equivalent to two (2) month's assessment reserve for replacement of the Common Elements. In addition, a working capital fund must be established for the initial months of the condominium operations equal to at least two (2) months estimated administrative costs to be incurred by the Board in the operation of the Condominium for each unit.

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(iv) To maintain the interior surfaces of the balconies assigned to the exclusive use of his unit, and of all exterior doors and windows of his unit.

(v) To maintain, repair and replace all heating, air conditioning, utility and mechanical equipment, and all sewer and water lines; including all pipes, ducts, wires, cable and conduits used in connection therewith, which are for the exclusive use of his unit, whether or not located within the boundaries of his unit.

(vi) To promptly report to the Association any defect or need for repairs, the responsibility for the remedying of which is that of the Association.

(c) Alteration and Improvement. Neither a unit owner nor the Association shall make any alterations in the portions of a unit or building which are to be maintained by the Association, or remove any portion thereof, or make any additions thereto, or do any work which would jeopardize the safety or soundness of the building, or impair any easement, without first obtaining approval in writing of the owners of all other units in the building concerned and the approval of the Board of Directors of the Association.

## .2. Common Elements.

(a) By the Association. The maintenance and operation of the common elements shall be the responsibility and the expense of the Association.

(b) Additions, Alterations and Improvements. After the completion of the improvements included in the common elements which are contemplated by this Declaration there shall be no further additions to common elements without prior approval in writing of seventy-five (75%) percent of the votes of the unit owners, and the approval in writing of all mortgagees who are the holders of mortgages comprising first liens on the units so approving, provided, however, that any alteration or improvement of common elements which constitute or are contained in the boundaries of units bearing the approval in writing of unit owners entitled to cast fifty-one (51%) per cent of the votes in the Association and the approval in writing of all mortgagees who are the holders of mortgages comprising first liens on the units of such approving unit owners, and which does not prejudice the rights of any owners not consenting, may be done if the owners who do not approve are relieved from the initial cost thereof. There shall be no change in the share and rights and obligations of a unit owner in the common elements which are altered or further improved, whether or not the unit owner contributes to the initial cost thereof. Any such alteration or

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addition shall be done in accordance with complete plans and specifications therefor first approved in writing by the Board; and promptly upon completion of such additional building or structural alteration or addition to any structure, the Association shall duly record or file of record in the office of the Judge of Probate of Baldwin County, Alabama, such amendment, together with a complete set of plans of the condominium, as so altered, certified "as built" by a licensed or registered engineer or architect.

12. Assessments. The making and collection of assessments against unit owners for common expenses shall be pursuant to the By-Laws and subject to the following provisions:

.1. Share of Common Expenses. Each unit owner shall be liable for a proportionate share of the common expenses, and shall share in the common surplus, such share being the same as his percentage of ownership in the common elements.

.2. Default in Payment. In the event of default by any unit owner in paying the common expenses as determined by the Board of Directors, the unit owner shall be obligated to pay such accelerated charges, late charges and other costs and expenses as shall be fixed by the By-Laws, together with all expenses, including attorneys' fees, incurred by the Association in any undertaking to collect such unpaid common charges and expenses.

.3. Liens for Assessments. The association is hereby granted a lien upon each unit and its appurtenant undivided interest in the common elements, and upon the goods, furniture and effects belonging to the unit owner and located in such unit, which lien shall secure and does secure the moneys due for all assessments now or hereafter levied or subject to being levied against the owner of each unit, which liens shall also secure interest, if any, and all other lawful charges which may be due on the amount of any delinquent assessment owing to the Association, and which lien shall also secure all costs and expenses, including a reasonable attorney's fee, which may be incurred by the Association in enforcing this lien upon said unit and its appurtenant undivided interest in the common elements. The said lien for non-payment of common expenses shall have priority over all other liens and encumbrances, recorded or unrecorded, except only (1) tax lien on the unit in favor of the State, the County, any municipality and any special district, and (2) all sums unpaid on a first mortgage of record. In any suit for the foreclosure of said lien, the Association shall be entitled to rental from the owner of any unit from the date on which the payment of any assessment or installment thereof becomes delinquent and shall be entitled to the appointment of a receiver for said unit, without notice to the owner of such unit. The rental required to be paid shall be equal to the rental charged on comparable type of dwelling units in Gulf Shores, Alabama. The lien granted to the Association shall further secure such advances for taxes and other payments which may be required to be advanced or paid by the Association in order to preserve and protect its lien, and the Association shall further be entitled to interest at the rate of eight (8%) per cent per annum on any such advances made for such purposes. All persons, firms, or corporation who shall

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acquire, by whatever means, any interest in the ownership of any unit, or who may be given or acquire a mortgage, lien or other encumbrance thereon, are hereby placed on notice of the lien granted to the Association.

.4. Rental Pending Foreclosure. In any foreclosure of a lien for assessments, the owner of the unit subject to the lien shall be required to pay a reasonable rental for the unit.

.5. No Exemption from Assessments. No owner of a unit may exempt himself from liability for contribution toward the common expenses by waiver of the use or enjoyment of any of the common elements or by the abandonment of his unit, or by any other means; except that any holder of a mortgage which comes into possession of the unit pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed in lieu of foreclosure, shall take the property free of any claims for unpaid assessments against the mortgaged unit which accrue prior to the time such holder comes into possession (except for claims for a pro rata share of such assessments resulting from a pro rata allocation of such assessment to all units including the mortgaged unit); and shall not be liable for contribution toward common expenses until the subject unit shall have been leased or sold.

.6. Statement of Unpaid Assessments. The Association shall promptly provide any unit owner and/or the holder of a mortgage comprising a first lien on any unit or the grantee in any voluntary conveyance of a unit so requesting the same in writing with a written statement of all unpaid assessments and other charges due from the unit owner.

13. Association: The operation and administration of the condominium shall be by the Association of the unit owners, pursuant to the provisions of the Condominium Ownership Act of Alabama, which said Association shall be incorporated by Articles of Incorporation recorded in the office of the Judge of Probate of Baldwin County, Alabama. The Association shall be an entity which shall have the capability of bringing suit and being sued with respect to the exercise or non-exercise of its powers. It shall have authority and the power to maintain a class action and to settle a cause of action on behalf of unit owners of the condominium with reference to the common elements, the roof and structural components of a building or other improvement, and mechanical, electrical and plumbing elements serving an improvement or a building as distinguished from mechanical elements serving only a unit; and with reference to any and all other matters in which all the unit owners of the condominium have a common interest. The Association shall be further organized and shall fulfill its functions pursuant to the following provisions:-

.1. Name. The name of the Association shall be SEA HORSE CONDOMINIUM ASSOCIATION.

.2. Powers. The powers and duties of the Association shall include those set forth in the Condominium Ownership Act, and those set forth in this Declaration and the By-Laws of the Association, attached to and made a part hereof, and shall have the power to purchase a unit of the condominium. The powers of the Association shall include but not be limited to the maintenance, management and operation of the condominium property.

.3. Members.

(a) Qualification. The members of the Association shall consist of all of the record owners of units.

(b) Change of Membership. Change of membership in the Association shall be established by the recording in the public records of Baldwin County, Alabama, of a deed or other instrument establishing a record title to a unit in the condominium, and the delivery to the Association of a certified copy of such instrument, the owner designated by such instrument thereby becoming a member of the Association. The membership of the prior owner shall be terminated.

(c) Voting Rights. Each unit shall be entitled to one (1) vote. The vote for a unit shall be cast by the owner thereof or the owner of a possessory interest therein, or in the case of a corporate owner, by an officer or employee thereof. Owners of more than one (1) unit shall be entitled to a vote for each unit owned. However, should the Association be a unit owner, it shall not have the voting right for that unit.

(d) Designation of Voting Representative. In the event a unit is owned by one (1) person, his right to vote shall be established by the record title to his unit. If a unit is owned by more than one (1) person, the person entitled to cast the vote for the unit shall be designated by a certificate signed by all of the record owners of the unit and filed with the Secretary of the Association. If a unit is owned by a corporation, the officer or employee thereof entitled to cast the vote for the unit shall be designated by a certificate of appointment signed by the President or Vice-President and attested by the Secretary or Assistant Secretary of the corporation and filed with the Secretary of the Association. If such a certificate is not on file with the Secretary of the Association for a unit owned by more than one (1) person or by a corporation, the membership or vote of the unit concerned shall not be considered in determining the requirement for a quorum nor for any purpose requiring the approval of the person entitled to cast the vote for the unit. Such certificate shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the unit concerned is effected. A certificate designating the person entitled to cast the vote of a unit may be revoked by any owner thereof.

(e) Approval of Disapproval by Unit Owners. Whenever the approval or disapproval of a unit owner is required upon any matter, whether or not the subject of an Association meeting, such approval or disapproval shall be expressed by the same person who would cast the vote of such owner if in an Association meeting, unless the joinder of all record owners is specifically required by this Declaration.

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(f) Restraint Upon Assignment of Shares in Assets. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his unit.

.4. Board of Directors. The affairs of the Association shall be conducted by a Board of Directors which shall consist of such number not less than three (3) nor more than five (5) as shall, from time to time, be determined and fixed by vote of a majority of the voting members present at any annual meeting of the members.

.5. Indemnification. Every Director and every Officer of the Association shall be indemnified by the Association against all expenses and liabilities, or any settlement thereof, including counsel fees, reasonably incurred by or imposed upon him in connection with 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 at the time such expenses are incurred, except in such cases wherein 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 herein shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interests of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such Director or Officer may be entitled.

.6. Limitation of Liability. Notwithstanding the liability of the Association to maintain and repair parts of the condominium property, the Association shall not be liable for injury or damage caused by a latent condition of the property to be maintained and repaired by the Association nor for injury or damage caused by the elements, or other owners or persons.

.7. By-Laws. By-Laws of the Association shall be in the form attached as Exhibit 2 hereto.

.8. Leasing of Amenities. The ownership association of Sea Horse Condominium shall have the unrestricted right to lease the amenities and facilities including any recreational and parking facilities related to or associated with Sea Horse Condominiums. None of the amenities or facilities will be subject to any restriction or reservation in favor of the developer.

14. Insurance. Insurance (other than title insurance) which shall be carried upon the condominium property and the property of the unit owners shall be governed by the following provisions:-

1.1 Authority to Purchase. All insurance policies upon the condominium property shall be purchased by the Association in the name of the Association as trustee for each of the unit owners in the percentages of ownership set forth in the Declaration, and their mortgagees as their interest may appear and provision shall be made for the issuance of certificates of mortgage endorsements to the mortgagee of unit owners. Such policies shall be deposited with the association. A unit owner may, at his own expense, additionally insure his own unit for his own benefit provided such additional insurance upon his unit be placed with the Association's insurance agent; and provided

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further, that any diminution in insurance proceeds to the Association resulting from the existence of such other insurance shall be chargeable to the owner who acquired such other insurance, who shall be liable to the Association to the extent of any such diminution and/or loss of proceeds. A unit owner may obtain at his own expense insurance coverage upon his own personal property, and such other coverage, including personal liability, as he may desire.

.2. Property Coverage.

(a) Casualty. All buildings and improvements upon the land and all personal property comprising the condominium property shall be insured with a single insurance agent in an amount sufficient to avoid application of a co-insurance clause, but not more than the maximum insurable replacement value, without deduction for depreciation, as determined annually by the Board of Directors of the Association. If reasonably available, the policy or policies shall contain a stipulated amount clause, or determinable cash adjustment clause, or similar clause to permit a cash settlement covering specified value in the event of destruction and a decision not to rebuild.

(i) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and

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

(b) Public liability in such amounts and with such coverage as shall be required by the Board of Directors of the Association.

(c) Workmen's Compensation policy, if needed to meet the requirements of the law.

(d) Other Insurance. The Board may purchase and maintain in force debris removal insurance, fidelity bonds, and other insurance and/or bonds as it may deem necessary. The Board is authorized to provide coverage for payment of maintenance charges in behalf of an owner whose unit is rendered uninhabitable by a peril insured against, and to absolve such an owner of the obligation to pay maintenance charges to the extent that the same are offset by proceeds from such coverage.

(e) Revision. Insurance coverages will be analyzed by the Board or its representative, at least every five (5) years from the date hereof and the insurance program revised accordingly.

.3. Provisions. Every such policy of insurance shall in substance and effect:-

(a) Provide that the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim any right of, set-off, counterclaim, apportionment, proration, or contribution by reason

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of any other insurance obtained by or for any apartment owner.

(b) Contain no provision relieving the insurer from liability for a loss occurring while the hazard to such building is increased, whether or not within the knowledge or control of the Association, or because of any breach of warranty or condition or any other act or neglect by the Association or any unit owner or any other persons under either of them.

(c) Provide that such policy may not be cancelled (whether or not requested by the Association) except by the insurer giving at least thirty (30) days' prior written notice to the Association, the fee owner, and every other person in interest who shall have requested such notice of the insurer.

(d) Contain a waiver by the insurer or any right of subrogation to any right of the Association, or either against the owner or lessee of any unit; and

(e) Contain a standard mortgagee clause which shall:-

(i) Provide that any reference to a mortgagee in such policy shall mean and include all holders of mortgages of any unit, whether or not named therein; and

(ii) Provide that such insurance as to the interest of any mortgagee shall not be invalidated by any act or neglect of the Association or unit owners or any persons under any of them; and

(iii) Waive any provision invalidating such mortgage clause by reason of the failure of the mortgagee to notify the insurer of any hazardous use or vacancy, any requirement that the mortgagee pay any premium thereon, and any contribution clause.

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

.5. Insurance Trustee; Shares of Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the unit owners and their mortgagees as their interests may appear, and shall provide that all proceeds covering casualty losses shall be paid to the Association, as Trustee for each of the unit owners in the percentages established by the Declaration, which said Association, for the purpose of these provisions, is herein referred to as the Insurance Trustee. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the same in trust for the purposes elsewhere stated herein and for the benefit of the unit owners and their mortgagees, as follows:-



(a) Common Areas and Facilities. Proceeds on account of damage to common areas and facilities -- an undivided share for each unit owner, such share being the same as his undivided share in the common areas and facilities appurtenant to his unit.

(b) Units. Proceeds on account of units shall be held for the owners of damaged units in proportion to the cost of repairing the damage suffered by each unit owner, which cost shall be determined by the Association.

(c) Mortgages. In the event a mortgagee endorsement has been issued as to a unit, the share of the unit owner shall be held in trust for the mortgagee and the unit owner as their interests may appear.

.6. Distribution of Proceeds. If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be used to defray the cost thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittances to unit owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a unit and may be enforced by him.

.7. Association as Agent. The Association is hereby irrevocably appointed agent for each unit owner to adjust all claims arising under insurance policies purchased by the Association, and to execute and deliver releases upon the payment of claims.

15. Reconstruction or Repair After Casualty. In the event of the damage or destruction of all or part of the property, then, unless it be determined by a vote of one hundred (100%) per cent of the owners and one hundred (100%) per cent of all record owners of liens on the units not to repair or reconstruct such damaged or destroyed property, the following provisions shall apply:-

1. Reconstruction or Repair. If any part of the condominium property shall be damaged by casualty, it shall be reconstructed or repaired.

(a) Common Areas and Facilities. If the damaged improvement is a common area or facility, the damaged property shall be reconstructed, replaced or repaired.

(b) Building.

(i) Partial Destruction. If the damaged improvement is part of a building, the damaged property shall be reconstructed or repaired.

(ii) Total Destruction. If a building is so damaged that the same is untenable, the building shall be reconstructed.

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(c) Plans and Specifications. Any such reconstruction or repair must be substantially in accordance with the plans and specifications for the original building, or as the building was last constructed, or according to plans approved by the Board of Directors of the Association, which approval shall not be unreasonably withheld.

.2. Responsibility. If the damage is only to those parts of a unit for which the responsibility of maintenance and repair is that of a unit owner, then the unit owner shall be responsible for the reconstruction and repair after casualty. In all other instances, the responsibility for reconstruction and repair after casualty shall be that of the Association.

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

.4. Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, assessments shall be made against the unit owners who own the damaged property, and against all unit owners in the case of damage to common areas and facilities, in sufficient amounts to provide funds to pay the estimated costs. If at any time during reconstruction and repair, or upon the completion of reconstruction and repair, the funds for the payment of the costs thereof are insufficient, assessments shall be made against the unit owners who own the damaged property, and against all unit owners in the case of damage to common areas and facilities, in sufficient amounts to provide funds for the payment of such costs. Such assessments against unit owners for reconstruction and/or repair of damages to units shall be in proportion to the cost of reconstruction and repair of their respective units. Such assessments for reconstruction and/or repair of damage to common areas and facilities shall be in proportion to the owner's share in the common areas and facilities.

.5. Construction Funds. The funds for payment of costs of reconstruction and repair after casualty for which the Association is responsible which shall consist of proceeds of insurance held by the Insurance Trustee and funds collected by the Association from assessment against unit owners, shall be disbursed in payment of such costs in the following manner:-

(a) Association. The proceeds of insurance collected on account of a casualty, and the sums deposited with the Association from collections of assessments against the unit owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:-

(i) Unit Owner. The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with the unit owner shall be paid by the Insurance Trustee to the unit owner or, if there is a mortgagee endorsement, then to the unit owner and the mortgagee jointly.

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(ii) Association -- Lesser Damage.

If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is less than the total of the annual assessments for recurring expense to be made during the year in which the casualty occurs, then the construction fund shall be disbursed in payment of such costs upon the order of the Association; provided, however, that upon request to the Insurance Trustee by a mortgagee which is a beneficiary of an insurance policy the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereafter provided for the reconstruction and repair of major damage.

(iii) Association -- Major Damage.

If the amount of estimated costs of reconstruction and repair which is the responsibility of the Association is more than the total of the annual assessments for recurring expense to be made during the year in which the casualty occurs, then the construction fund shall be disbursed in payment of such costs in the manner required by the Board of Directors of the Association and upon approval of an architect qualified to practice in Alabama and employed by the Association to supervise the work.

(iv) Surplus. It shall be presumed that the first moneys disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds; and if there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere herein provided.

.6. Blanket Mortgage. Notwithstanding any other provision of this Declaration or the By-Laws, the entire condominium property or some or all of the units included therein may be subjected to a single or blanket mortgage constituting a first lien thereon created by a recordable instrument executed by all of the owners of the property or units covered thereby. The instrument creating any such mortgage shall provide a method whereby any unit owner may obtain a release of his unit from the lien of such mortgage, and a satisfaction and discharge in recordable form, upon payment to the holder of the mortgage of a sum equal to the proportionate share attributable to his unit of the then outstanding balance of unpaid principal and accrued interest and any other charges then due and unpaid, which proportionate share attributable to each unit shall be the proportion in which all unit owners whose units are then subject to the lien of such mortgage own among themselves the common elements and the

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private elements as provided in the Declaration, or such other reasonable proportion as shall be specifically provided in the mortgage instrument; and such mortgage may contain provisions for converting the same to individual mortgages on the individual units included therein.

.7. Exceptions. The foregoing provisions of this section entitled "Maintenance of Community Interests" shall not apply to a transfer to or purchase by any holder of the mortgage which comes into possession and title of the unit as a result of owning a mortgage upon the unit concerned, and this shall be so whether the title is acquired pursuant to the remedies provided in the mortgage, or foreclosure of the mortgage, or deed from the mortgagor in lieu of foreclosure; nor shall such provisions apply to a transfer, sale or lease by such holder of the mortgage which so acquires its title. Neither shall such provisions require the approval of a purchaser who acquires the title to a unit at a duly advertised public sale with open bidding as may be provided by law, such as but not limited to execution sale, foreclosure sale, judicial sale or tax sale.

.8. Unauthorized Transactions. Any sale, mortgage or lease which is not authorized pursuant to the terms of this Declaration shall be void unless subsequently approved by the Association.

.9. Notice of Lien or Suit:

(a) Notice of Lien. A unit owner shall give notice to the Association of every lien upon his unit other than for permitted mortgages, taxes and special assessments, within five (5) days after the owner's receipt of notice thereof.

(b) Notice of Suit. A suit owner shall give notice to the Association of every suit or other proceedings which may affect the title to his unit, such notice to be given within five (5) days after the unit owner receives knowledge thereof.

(c) Failure to Comply with this subsection concerning liens will not affect the validity of any judicial sale.

16. Compliance and Default. Each unit owner shall be governed by and shall comply with the terms of the condominium documents and regulations as they may be amended from time to time. A default shall entitle the Association or other unit owners to the following relief in addition to the remedies provided by the Condominium Ownership Act:-

.1. Negligence. A unit owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, negligence or carelessness or by that of any member of his family or his or their guests, employees, agents, or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a unit or its appurtenances.

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.2. Costs and Attorneys' Fees. In any proceeding arising because of an alleged default by a unit owner, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be awarded by the Court.

.3. No Waiver of Rights. The failure of the Association or any unit owner to enforce any covenant, restriction, or other provision of the Condominium Ownership Act, this Declaration, the By-Laws, or the Rules and Regulations shall not constitute a waiver of the right to do so thereafter.

17. Covenant Against Partition. There shall be no judicial or other partition of the project or any part thereof, nor shall DEVELOPER or any person acquiring any interest in the project or any part thereof seek any such partition unless the property has been removed from the provisions of the Condominium Ownership Act, as in said Act provided.

18. Amendment. This Declaration of Condominium and the By-Laws of the SEA HORSE CONDOMINIUM ASSOCIATION, may be amended in the following manner-

.1. Notice. 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.

.2. Resolution. A resolution adopting a proposed amendment may be proposed by either the Board of Directors of the Association or by ten (10%) per cent of the members of the Association, and after being so proposed and thereafter approved by one (1) of such bodies, it must then be approved by the other to become effective. Directors and members not present at the meeting considering the amendment may express their approval or disapproval in writing, providing such approval or disapproval is delivered to the Secretary-Treasurer at or prior to the meeting. Such approvals must be by the consent of the owners of unit estates to which at least 67% of the votes in the association are allocated, and the approval of the holders of mortgages on unit estates which have at least 51% of the votes of the unit estates subject to eligible holder mortgages.

.3. Recording. A copy of each amendment shall be certified by the President and Secretary-Treasurer of the Association as having been duly adopted and shall be effective when recorded in the Office of the Judge of Probate of Baldwin County, Alabama.

.4. Agreement. In the alternative, an amendment may be made by an agreement signed and acknowledged by all of the record owners, including first mortgagees, of units in the condominium in the manner required for the execution of a deed, and such amendment shall be effective when recorded in the Office of the Judge of Probate of Baldwin County, Alabama.

.5. Proviso. Provided, however, that no amendment shall discriminate against any unit owner nor against any unit or class or group of units, nor change any condominium unit nor increase the owner's liability for common expenses unless the record owner thereof and all record owners of liens thereon shall join in the execution of the amendment.

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6. Provisions Pertaining to the Developer. Notwithstanding any other provisions herein contained the following additional provisions shall be deemed to be in full force and effect and that the Developer is required to transfer control within three months after ninety per cent of the Units are sold or three years after fifty per cent of the Units are sold and shall retain exclusive control of the following:

(a) The Developer reserves the unrestricted right to sell, assign or lease any unit which it continues to own after the recording or filing of this Declaration, and to post signs on the condominium property.

(b) The Directors of the Association shall be designated by the Developer and such Directors as may be so designated need not be unit owners.

(c) None of the provisions in this subparagraph contained shall be construed so as to relieve the Developer from any obligations of a unit owner to pay assessments as to each unit owned by it, in accordance with the condominium documents.

19. Proportionate changes in Common Expenses and Common Surplus. In the event any one (1) or more of the units are not rebuilt by reason of the loss of lands as a result of destruction, reduced, or in the event the number of units is reduced because (a) the Association has become the owner of a unit by foreclosure of its lien as heretofore provided, or (b) an entity has acquired title to a unit as the result of owning a mortgage upon the unit concerned, whether by deed from the mortgagor or through foreclosure proceedings, then the proportionate share of the common expenses and of the common surplus of each unit shall be increased by adding to each remaining unit their proportionate percentages of ownership out of the percentages of ownership of the units so reduced.

20. Termination. The condominium may be terminated in the manner provided by the Condominium Ownership Act; provided, however, that, in the event of termination, each unit shall be subject to the payment of a share of the common expenses as heretofore defined .

21. Minerals. Developer reserves all the oil, gas and minerals in, on or under the real property described, unto its self, its successors and assigns, together with the free right of egress and ingress to recover same. .

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

23. Special Provisions.

1. Association may not be bound by prior contracts or leases entered into by the Developer unless the Owner's Association acknowledges said contract. The Owner's Association has the right of termination without cause which is exercisable without penalty at any time after transfer of control upon not more than ninety days notice to the other parties.

.2. The developer has no contractual relationship at the time of this declaration relative to the term and termination provisions for any professional management contract.

.3. All lease or Rental Agreements made by a Unit Owner or the Association or the Developer must be in writing and no Unit may be rented for less than 30 days.

.4. 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 owner may lease less than the entire unit. No unit may be leased or rented for a period of less than thirty (30) days. Any lease agreement shall be required to 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 a default under the lease.

.5. If all or any part of the property is taken or threatened to be taken by eminent domain or by power in the nature of eminent domain (whether permanent or temporary), the Association and each Owner shall be entitled to participate in proceedings incident thereto at their respective expense. The Association shall give timely written notice of the existence of such proceedings to all Owners and to all first Mortgagees known to the Association to have an interest in a Condominium Unit. The expense of participation in such proceedings by the Association shall be borne by the Common Fund. The Association is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the Association, in its discretion, deems necessary or advisable to aid or advise it in matters relating to such proceedings. All damages or awards for such taking shall be deposited with the Association and such damages or awards shall be applied as provided to defend or resist any such proceedings, to make any settlement with respect thereto, or to convey such property to the condemning authority in lieu of such condemnation proceedings. With respect to any such taking, all damages and awards shall be determined for such taking as a whole and not for each Owner's interest therein. After the damages or awards for such taking are determined, such damages or awards shall be paid to the account of each Owner and first Mortgagee, if any, as their interests may appear in proportion to their percentage ownership interest in the General Common Elements to be applied or paid as set forth in the attached Exhibit " ", unless restoration takes place as herein provided. The Association, if it deems advisable, may call a meeting of the Owners at which meeting the Owners, by a majority vote, shall decide whether to replace or restore, as far as possible, the General Common Elements so taken or damaged. In the event it is determined that the General Common Elements should be replaced or restored by obtaining other land or building additional structures, this Declaration and the Plat attached hereto shall be duly amended by an instrument executed by the Association on behalf of the Owners. In the event such eminent domain proceeding results in the taking or damage to one or more, but less than sixty-seven (67%) percent of the total number of Condominium Units, then the damage and awards for such taking shall be determined for each Condominium Unit and the following shall apply:

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(a) The Association shall determine which of the Condominium Units damaged by such taking may be made tenantable for the purposes set forth in the Declaration, taking into account the nature of this Condominium Project and the reduced size of each Condominium Unit so damaged.

(b) The Association shall determine whether it is reasonably practical to operate the remaining Condominium Units of the Project, including those damaged Units which may be tenantable, as a Condominium in the manner provided in this Declaration.

(c) In the event the Association determines it is not reasonably practical to operate the undamaged Condominium Units and the damaged Units which can be made tenantable, then the Condominium Project shall be deemed to be regrouped and merged into a single estate owned jointly in undivided interest by all Owners, as owners in indivision, in the percentage ownership interest previously owned by each Owner in the General Common Elements.

(d) In the event the Association determines it will be reasonably practical to operate the undamaged Condominium Units and the damaged Units which can be made tenantable as a Condominium Unit, the damages and awards made with respect to each Unit which has been determined to be capable of being made tenantable shall be applied to repair and to reconstruct such Condominium Unit so that it is made tenantable. If the cost of such work exceeds the amount of the award, the additional funds required shall be assessed against those Condominium Units which are tenantable. With respect to those Units which may not be tenantable, the award made shall be paid as set forth in Exhibit "\_\_\_\_\_" of the Declaration hereof, and the remaining portion of such Units, if any, shall become a part of the General Common Elements. Upon payment of such award for the account of such Owner as provided herein, such Condominium Unit shall no longer be a part of the Condominium Project, and the percentage ownership interest in the General Common Elements appurtenant to each remaining Condominium Unit which shall continue as a part of the Condominium Project shall be equitably adjusted to distribute the ownership of the undivided interest in the General Common Elements among the reduced number of Owners and the Association shall promptly prepare, execute and record an Amendment to the Declaration reflecting the reallocation. If the entire Condominium Project is taken, or sixty-seven (67%) percent or more of the Condominium Units are taken or damaged by such taking, all damages and awards shall be paid to the accounts of the Owners of Units, as provided herein, in proportion to their percentage ownership interest in the General Common Elements; and this Corporation Regime shall terminate upon such payment. Upon such termination, the Condominium Units and General Common Elements shall be deemed to be regrouped and merged into a single estate owned in undivided interests by all Owners as tenants-in-common in the percentage ownership interest previously owned by each Owner in the General Common Elements. Any damages or awards provided in this Paragraph shall be paid to or for the account of any Owner and first Mortgagee, if any, as their interest may appear.

.6. The Provisions of this Declaration may be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescission and signed and acknowledged by Unit Owners owning not less than seventy-five (75%) percent of the total ownership of Common Elements; provided, however, that all lien holders of record have been notified by certified

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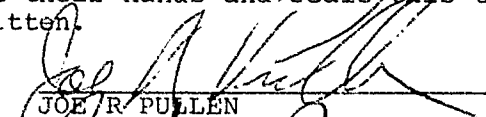
mail of such change, modification or rescission and an affidavit by the Secretary of the Association certifying to such mailing is made part of such instrument. Except as expressly provided in Paragraph D. Above, the percentage ownership of the Common Elements provided for in this Declaration shall not be amended or modified without the consent of all Unit Owners and of all Mortgagees.


(a) However, if the Act, the Declaration or the By-Laws require the consent or agreement of all unit owners or of all mortgagees for any action specified or rescinding any provision of this Declaration with respect to such action, then, in that event, such consent or agreement shall be in writing and shall be signed by all the Unit Owners or all Mortgagees or both as required by the Act of this Declaration or the By-Laws.

(b) Developer shall have the authority, without the joinder or consent of any other party including specifically, but not by way of limitation, a Unit Owner or Mortgagee of a Unit to make any amendment of this Declaration necessary to clarify any apparently conflicting provisions hereof, and/or correct any mistakes or errors of a clerical nature resulting from typographical or similar errors.

(c) Any change, modification or rescission, whether accomplished under any one or more of the provisions of the preceding paragraphs shall be effective upon recording of such instrument in the Baldwin County, Alabama, Probate Court; provided however, that no provisions in this Declaration may be changed, modified or rescinded so as to conflict with the provisions of the Alabama Condominium Act.

IN WITNESS WHEREOF the DEVELOPERS, JOE R. PULLEN and MARTHA C. PULLEN, have hereunto set their hands and seals this the day and year first above written.

  
JOE R. PULLEN (SEAL)

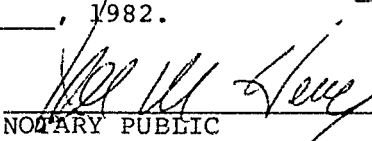
  
MARTHA C. PULLEN (SEAL)

STATE OF ALABAMA )

COUNTY OF BALDWIN )

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that JOE R. PULLEN and MARTHA C. PULLEN, whose names are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the said instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal on this 14  
day of Oct, 1982.

  
NOTARY PUBLIC

My Commission expires:

EXHIBIT "2"

BY-LAWS

OF

SEA HORSE CONDOMINIUM ASSOCIATION

1. IDENTITY.

These are the By-Laws of SEA HORSE CONDOMINIUM ASSOCIATION, an association organized pursuant to Act No. 1059, 1973 Regular Session, Alabama Legislature, (1975 Code of Ala. 35-8-1, et seq.) herein called the Condominium Ownership Act of Alabama, for the purpose of administering SEA HORSE, a condominium located in Baldwin County, Alabama.

1. The office of the Association shall be at SEA HORSE, in the place provided therefor, P. O. Box 477, Gulf Shores, Alabama 36542.

2. The fiscal year of the Association shall be the calendar year.

2. MEMBERS' MEETINGS.

1. The annual members' meeting shall be held at the office of the Association at 10:00 o'clock A. M., Local Time, on the second Friday in March of each year for the purpose of electing Directors and of transacting any other business authorized to be transacted by the members; provided, however, if that day is a legal holiday the meeting shall be held at the same hour of the next day following that is not a legal holiday.

2. Change of Date. The time of holding the annual meeting of members may be changed at any time prior to fifteen (15) days before the regular day for holding such meeting by a resolution duly adopted by the Board of Directors or by the members, provided that notice of such change be mailed to each member of record, at such address as appears upon the records of the Association, not less than ten (10) days before the holding of such meeting; and further provided that each annual meeting of members shall be held within one (1) month of the date on which it should regularly have been held but for such change.

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

4. Voting shall be on a percentage basis and the percentage of the vote to which the member is entitled is the percentage assigned to the unit of which the member is the owner as stated in the Declaration of Condominium.

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5. A quorum at members' meetings shall consist of persons entitled to cast a majority of the votes of the entire membership. As used in these By-Laws the term "majority" means fifty-one (51%) per cent of the votes in accordance with the percentages assigned in the Declaration of Condominium.

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

7. Vote required to transact business. When a quorum is present at any meeting, the holders of a majority of the voting rights present in person or represented by written proxy shall decide any question brought before the meeting, unless the question is one upon which, by express provision of the statutes, the Declaration of Condominium, or the By-Laws, a different number is required, in which case the express provision shall govern and control the decision in question.

8. Adjourned meetings. If any meeting of members cannot be organized because 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. The order of business at annual members' meetings and, as far as practical, at all other members' meetings, shall be:

- (a) Call to order,
- (b) Calling of the roll and certifying of proxies,
- (c) Proof of notice of meeting or waiver of notice,
- (d) Reading and disposal of any unapproved minutes,
- (e) Reports of officers,
- (f) Reports of committees,
- (g) Election of Directors,
- (h) Unfinished business,
- (i) New business,
- (j) Adjournment.

10. Proviso. Provided, however, that until the DEVELOPER of the condominium has completed and sold the number of units as provided in the Declaration or until DEVELOPER elects to terminate its control of the condominium, whichever shall first occur, there shall be no meeting of members of the Association unless a meeting is called by the Board of Directors.

### 3. BOARD OF DIRECTORS.

1. Membership. The affairs of the Association shall be conducted by a Board of Directors which shall consist of such number not less than three (3) nor more than five (5) as shall, from time to time, be determined and fixed by vote of a majority of the voting rights present at any annual meeting of the members.

2. Election of Directors shall be conducted in the following manner:

(a) Directors shall be elected at the annual meeting of the members of the Association; provided that all Directors shall not reside in any one (1) building.

(b) Except as to vacancies created by removal of Directors by members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by the remaining Directors.

(c) Any Director may be removed by concurrence of two-thirds ( $2/3$ ) of the members of the Association at a special meeting of the members called for that purpose. The vacancy thus created shall be filled at the same meeting by the members of the Association in the same manner as was provided for the election of the removed Director.

(d) Notwithstanding any other provisions herein contained the following additional provisions shall be deemed to be in full force and effect and that the Developer is required to transfer control within three months after ninety per cent of the units are sold or three years after fifty per cent of the units are sold.

3. The term of each Director's service shall extend until the next annual meeting of the members and thereafter until his successor is duly elected and qualified or until he is removed in the manner elsewhere provided.

4. 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 are elected, and no further notice of the organization meeting shall be necessary providing a quorum shall be present.

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

6. Special meetings of the Directors may be called by the President and must be called by the Secretary at the written request of one-third ( $1/3$ ) of the votes of the Board. 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.

7. Waiver of notice. 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.

8. A quorum at Directors' meetings shall consist of the Directors entitled to cast a majority of the votes of the entire Board of Directors. The acts of the Board approved by a majority of votes present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except where approval by a greater number of Directors is required by the Declaration of Condominium or of these By-Laws. 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

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from time to time until a quorum is present. At any adjourned meeting any business which might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a Director in the action of a meeting by signing, and concurring in the minutes thereof shall constitute the presence of such Director for the purpose of determining a quorum.

9. The presiding officer of Directors' meetings shall be the President. In the absence of the President, the Directors present shall designate one (1) of their number to preside.

10. Directors shall serve without compensation.

4. POWERS AND DUTIES OF THE BOARD OF DIRECTORS.

The Board of Directors, for the benefit of the Owners, shall have the following powers and duties:

1. To exercise all of the powers of the Association, with respect to the operation and regulation of the condominium project which are conferred upon the Board by the Condominium Ownership Act or which may be conferred upon the Board by these By-Laws pursuant to such Act.

2. To make contracts and incur liabilities in connection with the exercise of any of the powers and duties of the Board.

3. To provide or cause to be provided all goods and services required by the By-Laws or by law, or which the Board, in its discretion, deems necessary for the proper operation of the condominium project, or which are used in common or jointly by the common elements and condominium units, in each case to the extent such goods and services shall not be otherwise provided.

4. To collect monthly assessments from the Owners, and to render or cause to be rendered statements, when required or useful, of any assessments which remain unpaid by any Owner.

5. To maintain a class action, and to settle a cause of action, on behalf of Owners with reference to the common elements, the roof and structural components of a building or other improvement, and mechanical, electrical and plumbing elements serving an improvement or a building as distinguished from mechanical elements serving only a unit; and to bring an action, and to settle the same, on behalf of two (2) or more of the Owners, as their respective interests may appear, with respect to any cause of action relating to the common elements or more than one (1) condominium unit; all as the Board deems advisable.

6. To elect the Officers of the Association and otherwise exercise the powers regarding Officers of the Association as set forth in these By-Laws.

7. To determine who shall be authorized to make and sign all instruments on behalf of the Association and the Board.

8. To employ a management agent or manager, at a compensation established by the Board, to perform such duties and services as the Board shall authorize including, but not

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limited to, the duties listed in this Section; and any such duties so conferred upon the managing agent or manager by the Board of Directors may at any moment be revoked, modified or amplified by the majority of Owners in a duly constituted meeting.

9. To designate and remove personnel necessary for the maintenance, repair and replacement of the common elements.

10. To procure such fidelity bonds as the Board deems advisable covering Officers and employees of the Association handling and responsible for the Association's funds and personal property, and to procure Directors' and Officers' liability insurance if the Board deems it advisable; and the premiums of such bonds and insurance shall be paid by the Association as common expenses.

11. To determine policies and to adopt administrative rules and regulations governing the details of the operation and use of the condominium project, including the common elements, and to amend such administrative rules and regulations from time to time as the Board deems advisable.

#### 5. OFFICERS.

1. The executive officers of the Association shall be a President, who shall be a Director; a Vice-President, who shall be a Director; and a Secretary-Treasurer, all of whom shall be elected annually by the Board of Directors, and who may be peremptorily removed by vote of the Directors at any meeting. Any person may hold two (2) or more offices except that the President shall not also be the Secretary-Treasurer. The Board of Directors shall from time to time elect such other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

2. The President shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of President of an association, including but not limited to the power to appoint committees from among the members from time to time, as he may in his discretion determine appropriate, to assist in the conduct of the affairs of the Association.

3. The Vice-President shall, in the absence of or disability of the President exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Directors.

4. The Secretary-Treasurer 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 the members and Directors and other notices required by Law. He shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. He shall have custody of all property of the Association, including funds, securities, and evidences of indebtedness. He shall keep all records, including financial records and books of account of the Association in accordance with good accounting practices; shall keep detailed, accurate records in chronological order of the receipts and expenditures

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affecting the common areas and facilities, specifying and itemizing the maintenance and repair expenses of the common areas and facilities and any other expenses incurred; and he shall perform all other duties incident to the office of Secretary-Treasurer of an Association as may be required by the Directors or the President. The records, books of account, and the vouchers authorizing payments, shall be available for examination by a member of the Association at convenient hours of week days.

6. The compensation of all employees of the Association shall be fixed by the Directors. This provision shall not preclude the Board of Directors from employing a Director as an employee of the Association nor preclude the contracting with a Director for the management of the condominium.

#### 6. FISCAL MANAGEMENT.

1. Budget. The Board of Directors shall adopt a budget for each calendar year which shall include estimated common expenses and a reasonable allowance for contingencies and reserves less the unneeded fund balance on hand. Copies of the budget and proposed assessments shall be transmitted to each member on or before December 1st preceding the year for which the budget is made. If the budget is subsequently amended before the assessments are made a copy of the amended budget shall be furnished each member concerned.

2. Assessments for recurring expenses. Assessments for recurring common expenses shall be made for the calendar year annually in advance, on or before December 1st preceding the year for which the assessments are made. Such assessments shall be due in monthly installments on the 1st day of each month of the year for which the assessments are made. If such annual assessment is not made as required, an installment in the amount required by the last prior assessment shall be due upon each installment payment date until changed by a new assessment. The total of the assessments for recurring common expenses shall be not more than one hundred five (105%) per cent of the assessments for this purpose for the prior year unless approved in writing by unit owners entitled to cast a majority of the votes in the Association. In the event such an annual assessment proves to be insufficient, it may be amended at any time after approval in writing by unit owners entitled to cast a majority of the votes in the Association, and the amended assessment for the remaining portion of the calendar year shall be due at the time the next monthly installment is due. The first assessment shall be determined by the Board of Directors of the Association.

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

4. Assessments for emergencies. Assessments for common expenses or limited common expenses for emergencies which cannot be paid from the assessment for recurring expenses shall be made only after notice of the need therefor to the unit owners concerned.

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After such notice and upon approval in writing of more than one-half (1/2) of such unit owners concerned (and, in the case of limited common expenses, upon approval in writing of all of the unit owners in the building concerned), the assessment shall become effective, and it shall be due after thirty (30) days' notice thereof in such manner as the Board of Directors of the Association may require.

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

6. An audit of the accounts of the Association shall be made annually by a certified public accountant, not a member of the Association, and a copy of the report shall be furnished to each member not later than April 1st of the year following the year for which the report is made.

7. Fidelity bonds shall be required by the Board of Directors from all officers and employees of the Association funds. The amount of such bonds shall be determined by the Directors, but shall be at least the amount of the total annual assessments against members for recurring expenses. The premiums on such bonds shall be paid by the Association.

8. Default. In the event of default by any unit owner in paying to the Association any sums, charges or assessments as determined by the Board of Directors, such unit owner shall be obligated to pay such late charges and/or interest at one and one-half (1-1/2%) per cent per month from the due date thereof, as shall have been fixed and determined by the Board of Directors as applicable to all units, and together with all expenses, including attorneys' fees, incurred by the Association in any proceedings brought to collect such unpaid charges. The association may foreclose the lien encumbering the unit created by non-payment of the required moneys in the same fashion as mortgage liens are foreclosed; provided that thirty (30) days' prior notice of the intention to foreclose shall be mailed, postage prepaid to the unit owner and to all persons having a mortgage lien or other interest of record in such unit as shown in the Association's record of ownership. The Association shall be entitled to the appointment of a Receiver, if it so requests. The Association shall have the right to bid on the unit at a foreclosure sale and to acquire, hold, mortgage and convey the same. In any such foreclosure action the lien of the Association shall be subordinate and inferior to any tax lien in favor of the State, County, any municipality and any special district, and any first mortgage liens of record encumbering such unit at the time of the commencement of the foreclosure action by the Association. In lieu of foreclosing its lien, the Association may bring suit to recover a money judgment for any sums, charges or assessments required to be paid to the Association without waiving its right to the same. In any action either to foreclose its lien or to recover a money judgment, brought by or on behalf of the Association against a unit owner, the losing unit owner shall pay the cost thereof, together with a reasonable attorneys' fee.

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If the Association becomes the owner of a unit by reason of foreclosure, it shall offer said unit for sale and at such time as a sale is consummated it shall deduct from the sale proceeds all sums of money due it for assessments and charges, all costs incurred in the bringing of the foreclosure suit, including reasonable attorneys' fees, and any and all expenses incurred in the re-sale of the unit, which shall include but not be limited to advertising expenses, real estate brokerage fees, abstract or title insurance costs, and expenses necessary for the repairing and refurbishing of the unit in question. All moneys remaining after deducting the foregoing items of expense and all sums due to the Association shall be returned to the former owner of the unit in question.

7. OBLIGATIONS OF THE OWNERS.

1. Assessments. Every owner of any unit in the condominium shall contribute pro rata toward the expense of administration of the condominium, as provided in the Declaration and in these By-Laws.

2. Maintenance and Repair.

(a) Every owner must perform promptly all maintenance and repair work within his own unit, which if omitted would affect the condominium in its entirety or in a part belonging to other owners, and is expressly responsible for the damages and liabilities that his failure to do so may engender

(b) All the repairs of internal or appurtenant installations of the unit such as water, light, power, air conditioning, heat, sewage, telephone, sanitary installations, doors, windows, lamps, and all other accessories belonging to the unit area shall be maintained at the owner's expense.

(c) An owner shall reimburse the Association for any expenditures incurred in repairing or replacing any common areas and facilities damaged through his fault.

3. Use of Units. Every owner shall comply strictly with the provisions of the Declaration, the By-Laws and the Rules. In the event of the failure of any owner so to do, the Association may sue to recover sums due, and/or damages, and/or injunctive relief, and for its costs and expenses therein, including a reasonable attorneys' fee.

4. Right of entry. The manager and any person authorized by the Board of Directors shall have the right to enter each unit in case of any emergency originating in or threatening such unit whether or not the owner or occupant is present at the time. Every unit owner and occupant, when so required, shall permit other unit owners or their representative to enter his unit at reasonable times for the purpose of performing authorized installations, alterations, or repairs to the common elements therein for central services provided that request for entry are made in advance.

5. Title. Every unit owner shall promptly cause to be duly recorded in the Office of the Judge of Probate of Baldwin County, Alabama, the deed or other conveyance to him of his unit or other evidence of his title thereto and file such evidence of his

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title with the Association, and the Secretary-Treasurer shall maintain such information in the record of ownership of the Association.

6. (a) Mortgagees. Any mortgagee of a unit may file a copy of its mortgage with the Association, and the Secretary-Treasurer shall maintain such information in the record of ownership of the Association. After the filing of the mortgage, the Association shall be required to notify the mortgagee of any unit owner who is in default in the expenses for the administration of the condominium and the mortgagee at its option may pay the delinquent expenses; and the holder of every such mortgage requesting the same shall be entitled to written notification from the Association of any default by the mortgagor of such unit in the performance of such mortgagor's obligations under the condominium documents which is not cured within thirty (30) days.

(b) Unless all holders of first mortgage liens on units have given their prior written approval, the Association shall not be entitled to:-

(i) Change the pro rata interest or obligations of any unit for the purposes of levying assessments and charges, and determining shares of undivided interest in the common elements and proceeds of the project;

(ii) Partition or subdivide any unit or the common elements of the project; nor

(iii) By act or omission seek to abandon the condominium status of the project except as provided by statute in case of substantial destruction, deterioration or obsolescence to the units and condominium project.

#### 8. PARLIAMENTARY RULES.

Roberts Rules of Order (latest edition) shall govern the conduct of Association meetings when not in conflict with the Condominium Ownership Act of Alabama.

#### 9. AMENDMENTS.

These By-Laws may be amended by following the provisions of Paragraph 18 of the Declaration of Condominium.

The foregoing were adopted as the By-Laws of SEA HORSE CONDOMINIUM ASSOCIATION, an association organized pursuant to Act no. 1059, 1973 Regular Session, Alabama Legislature (1975 Code of Ala. 35-8-1, et seq.) herein called the Condominium Ownership Act of Alabama, at the first meeting of the Board of Directors on October 14, 1982.

Approved:

Joseph Messina  
President

John D. White  
Secretary-Treasurer

EXHIBIT "3"

OWNERSHIP OF COMMON ELEMENTS

The owner or Owners of each Unit shall own as an appurtenance to each such Unit, a fractional undivided interest in the Common Elements which fraction shall have as its numerator a number equal to the number of square feet of Private Elements within each Unit and as its denominator the total number of square feet of Private Elements in the entire Condominium as follows:

<u>UNIT NO.</u>	<u>OWNERSHIP INTEREST IN COMMON ELEMENTS</u>
1	$\frac{2}{24}$
112	$\frac{1}{24}$
211	$\frac{1}{24}$
212	$\frac{1}{24}$
311	$\frac{1}{24}$
312	$\frac{1}{24}$
411	$\frac{1}{24}$
412	$\frac{1}{24}$
511	$\frac{1}{24}$
512	$\frac{1}{24}$
611	$\frac{1}{24}$
612	$\frac{1}{24}$
122	$\frac{1}{24}$
221	$\frac{1}{24}$

222	$\frac{1}{24}$
321	$\frac{1}{24}$
322	$\frac{1}{24}$
421	$\frac{1}{24}$
422	$\frac{1}{24}$
521	$\frac{1}{24}$
522	$\frac{1}{24}$
621	$\frac{1}{24}$
622	$\frac{1}{24}$