

# Boone County, Missouri

## Unofficial Document

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DECLARATION OF CONDOMINIUM  
OF  
OFF BROADWAY CONDOMINIUMS

### CONTENTS

	<u>Page</u>
DECLARATION OF CONDOMINIUM OF OFF BROADWAY CONDOMINIUM ASSOCIATION, INC.	
Article I. Introduction and Purpose	1
Article II. Definitions	1
Article III. Development Plan and Identification of Units	2
Article IV. Ownership of Common Elements	4
Article V. Voting Rights	4
Article VI. Common Expenses and Common Surplus	4
Article VII. Amendment of Declaration	5
Article VIII. Operating Entity	5
Article IX. Assessments	6
Article X. Provisions Governing the Alienation or Mortgage of the Condominium Units	7
Article XI. Insurance	11
Article XII. Reconstruction of Repair after Casualty	13
Article XIII. Use and Occupancy Restrictions	16
Article XIV. Maintenance, Alteration and Improvements	18
Article XV. Limited Common Elements	21
Article XVI. Termination	21
Article XVII. Pool and Facilities	22
Article XVIII. Miscellaneous Provisions	22
EXHIBIT A Survey, Plat and Graphic Descriptions	
EXHIBIT B Surveyor's Certificate	
EXHIBIT C Share of Common Expenses and Surplus	
EXHIBIT D - ARTICLES OF INCORPORATION OF OFF BROADWAY CONDOMINIUM ASSOCIATION, INC.	
Article I. Name and Address	
Article II. Purpose	
Article III. Powers	
Article IV. Members	
Article V. Perpetual Existence	
Article VI. Directors	
Article VII. Officers	
Article VIII. Indemnification	
Article IX. By-Laws	
Article X. Amendments	
Article XI. Subscribers	
EXHIBIT E - BY-LAWS OF OFF BROADWAY CONDOMINIUM ASSOCIATION, INC.	
Article I. Identity	
Article II. Membership	
Article III. Meeting of Members of Association and Voting Provisions	
Article IV. Directors	
Article V. Powers and Duties of the Board of Directors	
Article VI. Officers	
Article VII. Fiscal Management	
Article VIII. Parliamentary Rules	
Article IX. Amendment to the By-Laws	
Article X. Compliance and Default	
Article XI. Acquisition of Units	
Article XII. Liability Survives Termination of Membership	
Article XIII. Limitation on Liability	
Article XIV. Liens	
Article XV. Rules and Regulations	

EXHIBIT F - REAL PROPERTY TO BE EXCLUDED FROM THE CONDOMINIUM DEVELOPMENT BY SUBSEQUENT CONVEYANCE BY OFF BROADWAY CONDOMINIUM ASSOCIATION, INC. - A NOT FOR PROFIT CORPORATION AS A TRUST IN FAVOR OF ALL UNITS UNDER THE OFF BROADWAY SALES AND DEVELOPMENT CORPORATION

# Boone County, Missouri

## Unofficial Document

DECLARATION OF CONDOMINIUM  
OF  
OFF BROADWAY CONDOMINIUMS

ARTICLE I.

INTRODUCTION AND PURPOSE

This Declaration made this 2<sup>nd</sup> day of March, 1981, by Off Broadway Sales and Development Corporation, a Missouri corporation, herein referred to as "Developer," for itself, its successors, grantees and assigns.

Wherein the Developer makes the following declarations.

A. PURPOSE. The purpose of this Declaration is to submit the lands described in this instrument and improvements thereon to the condominium form of ownership and use in the manner provided by Chapter 448, Missouri Statutes, Condominium Act, as amended, hereinafter referred to as the "Condominium Act."

B. NAME AND ADDRESS. The name of which this condominium is to be identified is "Off Broadway Condominiums," and its address is 2801 East Broadway, Columbia, Boone County, Missouri, 65201.

C. THE LANDS. The lands owned by Developer, which, by this instrument are submitted to the condominium form of ownership, are the following described lands, lying in Boone County, Missouri, particularly described as follows:

Tracts One (1) and Two (2) of Survey No. 7642, Survey Records of Boone County, Missouri, being in the South Half (S $\frac{1}{2}$ ) of the Southwest Quarter (SW $\frac{1}{4}$ ) of Section Ten (10), Township Forty-eight (48), Range Thirteen (13), Boone County, Missouri, EXCEPT that part conveyed to State of Missouri for road purposes by deed recorded in Road Book 3, Page 472, and EXCEPT part conveyed to General Telephone Company of Missouri by deed recorded in Book 340, Page 515, Boone County Records.

Also, the West One Hundred (100) feet of Tract Three (3) of Boone County Survey 7642 as measured along the South line thereof except the south Two Hundred (200) feet as measured along the West line of said Tract, said property being located in the Southwest Quarter (SW $\frac{1}{4}$ ) of Section Ten (10), Township Forty-eight (48) North, Range Thirteen (13) West, Columbia, Boone County, Missouri, and being the same 1.78 acre tract shown by a Survey filed for record on February 19, 1981, in Book 479 at Page 883 of the Records of Boone County, Missouri.

All of the above described property is described by a Survey filed for record on February 19, 1981, in Book 479 at Page 884 of the Records of Boone County, Missouri, and contains 10.81 acres, more or less.

However, certain portions of the above described lands are subject to a right in the Developer to exclude portions of the above described property from the condominium development, all as provided in Article III, C., 3., infra.

The terms use hereto shall have the same meaning as unless the context

A. ASSESSMENTS for the operation of common expenses which

B. ASSOCIATION for the operation of Association, Inc., and

C. BOARD of Directors as the representative body responsible

D. BY-LAWS as they exist and

E. COMMON ELEMENTS include the tangibles and intangibles of the condominium units (see ARTICLE

F. COMMON EXPENSES to the Association. to:

1. Expenses for operation, repair and maintenance to be maintained by and parking lots and insurance for all common

2. Expenses for operation or by the By-Laws

(This document was prepared by Craig A. Van Matre, Attorney, 1103 East Broadway, Suite 200, Columbia, Missouri, 65201).

Nora Dietzel, Recorder of Deeds

# Boone County, Missouri

2

## Unofficial Document

Page

### DECLARATION OF CONDOMINIUM OF OFF BROADWAY CONDOMINIUM ASSOCIATION, INC.

Article I.	Introduction and Purpose	1
Article II.	Definitions	1
Article III.	Development Plan and Identification of Units	2
Article IV.	Ownership of Common Elements	4
Article V.	Voting Rights	4
Article VI.	Common Expenses and Common Surplus	4
Article VII.	Amendment of Declaration	5
Article VIII.	Operating Entity	5
Article IX.	Assessments	6
Article X.	Provisions Governing the Alienation or Mortgage of the Condominium Units	7
Article XI.	Insurance	11
Article XII.	Reconstruction of Repair after Casualty	13
Article XIII.	Use and Occupancy Restrictions	16
Article XIV.	Maintenance, Alteration and Improvements	18
Article XV.	Limited Common Elements	21
Article XVI.	Termination	21
Article XVII.	Pool and Facilities	22
Article XVIII.	Miscellaneous Provisions	22

### EXHIBIT A Survey, Plat and Graphic Descriptions

### EXHIBIT B Surveyor's Certificate

### EXHIBIT C Share of Common Expenses and Surplus

### EXHIBIT D - ARTICLES OF INCORPORATION OF OFF BROADWAY CONDOMINIUM ASSOCIATION, INC.

Article I	Name and Address
Article II	Purpose
Article III	Powers
Article IV	Members
Article V	Perpetual Existence
Article VI	Directors
Article VII	Officers
Article VIII	Indemnification
Article IX	By-Laws
Article X	Amendments
Article XI	Subscribers

### EXHIBIT E - BY-LAWS OF OFF BROADWAY CONDOMINIUM ASSOCIATION, INC.

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Article II	Membership
Article III	Meeting of Members of Association and Voting Provisions
Article IV	Directors
Article V	Powers and Duties of the Board of Directors
Article VI	Officers
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Article IX	Amendment to the By-laws
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Article XV	Rules and Regulations

### EXHIBIT F - REAL PROPERTY TO BE EXCLUDED FROM THE CONDOMINIUM DEVELOPMENT BY SUBSEQUENT CONVEYANCE BY OFF BROADWAY CONDOMINIUM ASSOCIATION, INC., A NOT FOR PROFIT CORPORATION, AS ATTORNEY IN FACT FOR ALL UNIT OWNERS TO OFF BROADWAY SALES AND DEVELOPMENT CORPORATION

# Boone County, Missouri

## Unofficial Document

DECLARATION OF CONDOMINIUM  
OF  
OFF BROADWAY CONDOMINIUMS

ARTICLE I.

INTRODUCTION AND PURPOSE

This Declaration made this 2<sup>nd</sup> day of March, 1981, by Off Broadway Sales and Development Corporation, a Missouri corporation, herein referred to as "Developer," for itself, its successors, grantees and assigns.

Wherein the Developer makes the following declarations.

A. **PURPOSE.** The purpose of this Declaration is to submit the lands described in this instrument and improvements thereon to the condominium form of ownership and use in the manner provided by Chapter 448, Missouri Statutes, Condominium Act, as amended, hereinafter referred to as the "Condominium Act."

B. **NAME AND ADDRESS.** The name of which this condominium is to be identified is "Off Broadway Condominiums," and its address is 2801 East Broadway, Columbia, Boone County, Missouri, 65201.

C. **THE LANDS.** The lands owned by Developer, which, by this instrument are submitted to the condominium form of ownership, are the following described lands, lying in Boone County, Missouri, particularly described as follows:

Tracts One (1) and Two (2) of Survey No. 7642, Survey Records of Boone County, Missouri, being in the South Half (S $\frac{1}{2}$ ) of the Southwest Quarter (SW $\frac{1}{4}$ ) of Section Ten (10), Township Forty-eight (48), Range Thirteen (13), Boone County, Missouri, EXCEPT that part conveyed to State of Missouri for road purposes by deed recorded in Road Book 3, Page 472, and EXCEPT part conveyed to General Telephone Company of Missouri by deed recorded in Book 340, Page 515, Boone County Records.

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However, certain portions of the above described lands are subject to a right in the Developer to exclude portions of the above described property from the condominium development, all as provided in Article III, C., 3., infra.

(This document was prepared by Craig A. Van Matre, Attorney, 1103 East Broadway, Suite 200, Columbia, Missouri, 65201).

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# Boone County, Missouri

## Unofficial Document

### ARTICLE II.

#### DEFINITIONS

The terms used in this Declaration and in its exhibits and all amendments hereto shall have the meaning stated in the Condominium Act and as follows, unless the context otherwise requires:

A. **ASSESSMENT** means the share of the funds required for the payment of common expenses which, from time to time, are assessed against the unit owner.

B. **ASSOCIATION** means the Missouri non-profit corporation responsible for the operation of the condominium designated as Off Broadway Condominium Association, Inc., and its successors.

C. **BOARD** means the Board of Directors of the Association or other representative body responsible for administration of the Condominium and its successors.

D. **BY-LAWS** means the By-laws of the Association specified in paragraph B as they exist and may be, from time to time, amended.

E. **COMMON ELEMENTS** means the portions of the condominium property to include the tangible personal property required for the maintenance and operations of the condominium, not included within the boundaries of the individual units (see ARTICLE III, E.).

F. **COMMON EXPENSES** means the expenses for which the unit owners are liable to the Association. Common expenses shall include, but shall not be limited to:

1. Expenses of administration and management; expenses of maintenance, operation, repair and/or replacement of the common elements and of portions of units to be maintained by the Association, of the pool and facilities, and of the streets and parking lots. Common expenses also include taxes, special assessments and insurance for all common elements and the pool and facilities.

2. Expenses declared common expenses by the provisions of this Declaration or by the By-Laws of the Association.

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# Boone County, Missouri

## Unofficial Document

3. Expenses agreed upon as common expenses of the Association.

4. Any valid charge against the condominium as a whole.

G. COMMON SURPLUS means the excess of all receipts of the Association from this condominium, including, but not limited to, assessments, rents, profits, and revenues on account of the common elements, over and above the amount of common expenses of this condominium.

H. CONDOMINIUM means that form of ownership of condominium property under which units of improvement are subject to ownership by one or more owners, and there is appurtenant to each unit, as a part thereof, an undivided share in the common elements.

I. CONDOMINIUM PARCEL OR PARCELS means a unit, together with the undivided share in the common elements which is appurtenant to the unit.

J. CONDOMINIUM PROPERTY means and includes the land in the condominium, whether or not contiguous, and all improvements thereon, and all easements and rights appurtenant thereto, intended for use in connection with the condominium.

K. CONDOMINIUM UNIT OR UNITS, means a part of the condominium property which is subject to private ownership.

L. DECLARATION, OR DECLARATION OF CONDOMINIUM, OR ENABLING DECLARATION, means this instrument, and all exhibits attached hereto, and as it may be, from time to time, amended.

M. DEVELOPER, for the purpose of this Declaration and all required associated documentation, means Off Broadway Sales and Development Corporation, a Missouri corporation, its successors and assigns.

N. INSTITUTIONAL MORTGAGEE means a bank, savings and loan association, insurance company or union pension fund, authorized to do business in the State of Missouri, or an agency of the United States Government.

O. INSTITUTIONAL MORTGAGE means any valid Deed of Trust or mortgage lien against a condominium unit held by an Institutional Mortgagee.

P. LIMITED COMMON ELEMENTS means and includes those common elements which are reserved for the use of a certain unit or units, to the exclusion of all other units, such as appurtenant driveways, patios, sidewalks, etc.

Q. OCCUPANT means the person or persons, other than the owners, in possession of a unit.

R. POOL AND FACILITIES means and includes the swimming pool and pool deck and a general purpose area, and such other improvements as the Developer determines, in its sole discretion.

S. REAL PROPERTY TO BE EXCLUDED means that real property described in Exhibit F annexed hereto and made a part hereof which is labeled "REAL PROPERTY TO BE EXCLUDED FROM THE CONDOMINIUM DEVELOPMENT BY SUBSEQUENT CONVEYANCE BY OFF BROADWAY CONDOMINIUM ASSOCIATION, INC., A NOT FOR PROFIT CORPORATION, AS ATTORNEY IN FACT FOR ALL UNIT OWNERS TO OFF BROADWAY SALES AND DEVELOPMENT CORPORATION," which is that real property which, at the election of the Developer, may be excluded from the effect and operation of this condominium development by causing Off Broadway Condominium Association, Inc., a Missouri not for profit corporation, as attorney in fact for all unit owners to convey said real property (or any portion thereof) to Off Broadway Sales and Development Corporation.

T. SINGULAR, PLURAL OR GENDER. Whenever the context so requires, the use of the plural shall include the singular, and the singular the plural, and the use of any gender shall be deemed to include all genders.

# Boone County, Missouri

U. UNIT OWNER, OR OWNER OF UNIT, OR PARCEL OWNER means the owner of a condominium parcel.

V. UTILITY SERVICES as used in the Condominium Act and as contained with reference to this condominium, and as used in the Declaration, shall include, but not be limited to, electric power, gas, and garbage and sewer disposal.

## ARTICLE III.

### DEVELOPMENT PLAN AND IDENTIFICATION OF UNITS

The condominium is described and established as follows:

A. SURVEY. The condominium property presently consists essentially of fourteen (14) units, in three (3) separate buildings, and other improvements, and for the purpose of identification, all units in the separate buildings located on said condominium property are given identifying numbers. No unit bears the same identifying number as any other unit. The aforesaid identifying number as to the unit is also the identifying number as to the parcel. A survey of the land showing the units and improvements on it is incorporated as part of Exhibit A.

B. PLANS. The improvements upon the land are constructed substantially in accordance with the plans and specifications for such. The plat, drawings and graphic descriptions which are all a part of Exhibit A and are incorporated herein by reference, were prepared by Ron Shy, Allstate Consultants, 1501 Vandiver Drive, Columbia, Missouri 65201.

#### C. AMENDMENT OF PLANS.

1. Alteration of Unit Plans. Pursuant to §§448.030 and 448.040 RSMo., the Developer reserves the right to increase or decrease the number of units comprising this condominium development from its present fourteen (14) units, and to alter the boundaries between units, as long as the Developer owns the units so altered. If Developer shall make any changes in units so authorized, such changes shall be reflected by an amendment of this Declaration. If more than one unit is concerned, Developer shall apportion between the units the shares in the common elements appurtenant to the unit concerned.

2. Addition of Real Property to Condominium Development. The Developer reserves the right to increase the number of units and the amount of real property which is subject to this Declaration by conveying contiguous parcels of real property to the condominium development and to reflect said conveyance by an amendment to this Declaration. If the addition of real property and units to be erected thereon is accomplished by the Developer, the percentage of ownership in the common areas owned by each unit owner will, of necessity, be decreased. Under no circumstances, however, will the number of units which shall comprise a part of this condominium development and located on the lands be in excess of one hundred fifty (150) units.

3. Exclusion of Real Property Previously Conveyed to Condominium Development by Developer. The Developer reserves the right to exclude a portion or all of the real property which is described in the attachment to this Declaration and labeled as "REAL PROPERTY TO BE EXCLUDED FROM THE CONDOMINIUM DEVELOPMENT BY SUBSEQUENT CONVEYANCE BY OFF BROADWAY CONDOMINIUM ASSOCIATION, INC., A NOT FOR PROFIT CORPORATION, AS ATTORNEY IN FACT FOR ALL UNIT OWNERS TO OFF BROADWAY SALES AND DEVELOPMENT CORPORATION." By accepting a conveyance of a unit in this condominium development, the unit owner (and any successor in interest thereto) hereby irrevocably designates, constitutes, and appoints Off Broadway Condominium Association, Inc., a Missouri not for profit corporation, as owner's true and lawful attorney in fact for the purpose of conveying all of said unit owner's interest in all or any portion of said real property to be excluded from this condominium development. This power of attorney shall not lapse until December 31, 1985. This power of attorney shall not be revocable in any respect whatsoever by any unit owner until December 31, 1985. The Developer may cause Off Broadway Condominium Association, Inc. to discharge the agency herein granted for any reason whatsoever and regardless of the effect on the condominium development as a whole. Any Purchaser of any portion of the real property comprising this condominium development or any portion of the real property which is excluded from this condominium development pursuant to this paragraph may conclusively rely upon the power of attorney herein granted, and all unit owners waive any objection they might have to any conveyance made by Off Broadway Condominium Association, Inc. pursuant to this power of attorney. Notwithstanding the exclusion of any real property from this condominium development pursuant to the foregoing authority, the Developer may nevertheless reconvey all or any part of said excluded real property such that said real property shall once again become a part of this condominium development and shall once again become subject to this declaration (including any amendments thereto). Until December 31, 1985, the Developer may effect the amendment to this Declaration referred to in this paragraph by a document of amendment executed and acknowledged by the Developer, which need not be approved by the Association, or any unit owner, lienor, or mortgagee.

4. Deed. Developer, all street frontage may be dedicated on or before December 31, 1985. In the event of any dedication of streets to the City of Boone County, Missouri, the City shall hereby irrevocably release or convey the streets, or thereon, to the City of Boone County, Missouri, on the power of attorney of a unit owner may be executed on or before December 31, 1985.

5. Imposition. In the event of the acceptance of a deed of purchase of a deed of conveyance to this Declaration, the Developer shall be deemed to have accepted by reason of the percentage of ownership in the common areas of the addition of any property contiguous or in contact with any property (13), Boone County, Missouri, condominium development owner shall, by and through the Developer, acknowledge the conveyance of the land to the condominium development as an amendment of this Declaration shall be deemed to have accepted until subsequent to December 31, 1985 shall be deemed to have accepted is hereby constituted to carry out the duties of the Developer.

D. EASEMENTS. The Developer shall be required to provide for the use of the condominium development as a unit shall be deemed to be a part of the building.

E. BOUNDARIES. The boundaries containing the units shall be as follows.

1. Upper boundary. The unit shall be bounded by the upper perimetrical boundary.

a. The lower boundary of each unit shall be the lower perimetrical boundary.

b. The upper boundary of each unit shall be the upper perimetrical boundary.

2. Perimeter boundary. The unit shall be bounded by the following perimeter boundary and upper boundary.

a. The vertical interior boundary of a unit shall be the vertical boundary of the portion of the building bounded by the vertical boundary of such unit.

b. The extended boundary of the unit shall be the extended boundary of the unit.

# Boone County, Missouri

4. Dedication of Streets in Development. At the election of the Developer, all streets and thoroughfares comprising a part of the condominium development may be dedicated to the City of Columbia, Missouri, at any time prior to December 31, 1985. In the event, the Developer, in its discretion, elects to so dedicate said streets to the City of Columbia, Missouri, this instrument, in which the Developer hereby irrevocably nominates the City of Columbia, Missouri, as its agent and attorney in fact for the purpose of effecting the conveyance or dedication of said street or streets or thoroughfares to the City of Columbia, Missouri, said conveyance or dedication to constitute a release or conveyance of all of said unit owner's interest in the affected street, streets, or thoroughfares. The City of Columbia, Missouri, may rely inclusively on the power of attorney herein granted in accepting said conveyance or dedication. A unit owner may not revoke this power of attorney at any time prior to December 31, 1985.

5. Implied Consent of Grantees. Each grantee of Developer, by the acceptance of a deed of conveyance to a unit in this condominium development, and each subsequent Purchaser of a unit in this condominium development, by the acceptance of a deed of conveyance, shall be deemed to have consented to such amendment or amendments to this Declaration and the plat as may be filed by the Developer to include an additional parcel or parcels, or additional units, and to change the number of units by reason of the inclusion of such additional parcel or parcels and to amend the percentage of ownership interests in the common elements allocated to each unit by the reason of the addition of units. Any parcel added by the Developer shall be reasonably contiguous or in close proximity to the condominium development; provided, however, that any property within Section Ten (10), Township Forty-eight (48), Range Thirteen (13), Boone County, Missouri, shall be considered as reasonably contiguous to the condominium development. Without limiting the generality of the foregoing, each unit owner shall, by and upon taking title to any unit, be conclusively deemed to have appointed the Developer as such owner's agent and attorney in fact for such owner to acknowledge the consent of such unit owner to the addition of an additional parcel of land to the condominium development, to an increase in the number of units, and for an amendment of the percentage and ownership allocated to each unit; and all owners shall be deemed to have mutually covenanted with each other and with the Developer not to attempt to revoke the aforesaid power of attorney in fact, and the powers thereunder, until subsequent to December 31, 1985, and any attempted revocation prior to December 31, 1985 shall be of no force and effect. For the foregoing purposes, the Developer is hereby constituted the attorney in fact for each unit owner to execute any instrument to carry out the terms and provisions of this section.

D. EASEMENTS. Easements are reserved through the condominium property as may be required for utility services and repair purposes in order to serve the condominium development adequately; provided, however, such easements through a unit shall be only according to the plans and specifications for the building, or as the building is constructed, unless approved in writing by the unit owner.

E. BOUNDARIES OF UNITS. Each unit shall include that part of the building containing the unit that lies within the boundaries of the unit which boundaries are as follows:

1. Upper and Lower Boundaries. The upper and lower boundaries of the unit shall be the following boundaries extended to an intersection with the perimetrical boundaries:

a. Upper Boundary--The horizontal plane of the lower ceiling surface shown by the diagrams of each unit attached hereto as sheet 2 of Exhibit A.

b. Lower Boundary--The horizontal plane of the upper surfaces of the floor slab.

2. Perimetrical Boundaries. The perimetrical boundaries of the unit shall be the following boundaries, extended to an intersection with the lower and upper boundaries:

a. Exterior Building Walls--The intersecting vertical planes adjacent to and which include the interior of the outside walls of the building bounding a unit and fixtures thereon and when there is attached to the building a garage, patio, stairway, or other portion of the building serving only the unit being bounded, such boundaries shall be the intersecting vertical planes adjacent to and which include all of such structures and fixtures thereon.

b. Interior Building Walls--The vertical planes of the interior surface line of walls bounding a unit extended to intersections with other perimetrical boundaries with the following exceptions:



# Boone County, Missouri

## Unofficial Document

(i) When walls between units are of varying thickness, or about a column or shaft, the plan of the interior surface line of a bounding wall shall be extended as an interior wall to the connecting bounding plan coincident with the plane of the interior surface line of an intervening column or shaft.

(ii) The plane of interior dividing walls shall be deemed to abut with the plane of exterior walls such that the point of intersection is on their respective interior surfaces.

### ARTICLE IV.

#### OWNERSHIP OF COMMON ELEMENTS

Each of the unit owners of the condominium shall own a qualified undivided interest in the common elements and limited common elements, and the undivided interest, stated as percentages of such ownership in the said common elements and limited common elements, is set forth on Exhibit C which is annexed to this Declaration and made a part hereof. However, this undivided ownership interest may be subject to reduction in the event the Developer adds additional units to this development.

The fee title to each condominium parcel shall include both the condominium unit and the respective undivided interest in the common elements. Said undivided interest in the common elements shall be deemed to be conveyed or encumbered with its respective condominium unit, even though the description in the instrument of conveyance or encumbrance may refer only to the fee title to a condominium unit.

Any attempt to separate the fee title to a condominium unit from the undivided interest in the common elements appurtenant to each unit shall be null and void.

### ARTICLE V.

#### VOTING RIGHTS

There shall be one person with respect to each unit ownership, who shall be entitled to vote at any meeting of the unit owners. Such person shall be known (and is hereinafter referred to) as a voting member. If a unit is owned by more than one person, the owners of said units shall designate one of them as the voting member, or in the case of a corporation, partnership, trust or other entity, an officer, employee or agent thereof shall be designated as the voting member. The designation of the voting member shall be made, as provided by and subject to, the provisions and restrictions set forth in the By-laws of the Association. The total number of votes shall be equal to the total number of units in the condominium and each condominium unit shall have no more or no less than one equal vote in the Association. If one individual owns two condominium parcels, he shall have two votes. The vote of a condominium unit is not divisible.

### ARTICLE VI.

#### COMMON EXPENSE AND COMMON SURPLUS

The common expenses of the condominium shall be shared by the unit owners, as specified and set forth in Exhibit C. The foregoing ratio of sharing common expenses and assessments shall remain, regardless of the purchase price of the condominium parcels, their location, or the building square footage included in each condominium unit.

Any common surplus of the Association shall be owned by each of the unit owners in the same proportion as their percentage ownership interest in the common elements. Common surplus is the excess of all receipts of the Association from this condominium, including, but not limited to, assessments, rents, profits, and revenues on account of the common elements of this condominium, over the common expenses of this condominium.

Unofficial Document

AMENDMENT OF DECLARATION

Except as otherwise provided, this Declaration of Condominium may be amended in the following manner:

A. By the Developer at any time prior to December 31, 1985, and thereafter only as hereinafter provided. Article III of this Declaration shall be construed as authorizing the Developer to amend this Declaration at any time prior to Dec. 31, 1985, by adding additional units to this condominium development.

B. RESOLUTION. A resolution for the adoption of a proposed amendment may be proposed either by the Board of Directors of the Association or by not less than twenty-five percent (25%) of the members of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, such approvals must be either by:

1. Not less than seventy-five percent (75%) of the entire membership of the Board of Directors and by not less than seventy-five percent (75%) of the votes of the entire membership of the Association; or

2. Not less than eighty percent (80%) of the votes of the entire membership of the Association; or

3. Until the first election of Directors, only by all of the Directors, provided the amendment does not increase the number of units or alter the boundaries of the common elements.

C. PROVISIO. Provided, however, that no amendment shall discriminate against any unit owner or against any unit or class or group of units, unless the unit owner so affected shall consent; and no amendment shall change any unit or the share in the common elements appurtenant to it, nor increase the owner's pro-rata share of the common expenses, unless the record owner of the unit concerned and all record owners of mortgages on such unit shall join in the execution of the amendment. Neither shall an amendment make any change in ARTICLE XI entitled "Insurance" nor in ARTICLE XII entitled "Reconstruction or Repair after Casualty" unless the record owners of all mortgages upon the condominium shall join in the execution of the amendment. nor shall any amendment make any changes in ARTICLE XIII, Section L, entitled "Reserved Rights of Developer" nor in any Article which affects the rights of Developer. No amendment shall be passed which shall impair or prejudice the rights and priorities of any mortgages, or change the provisions of this Declaration with respect to institutional mortgages, without the written approval of all institutional mortgages of record.

D. EXECUTION AND RECORDING. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted, which certificate shall be executed by the officers of the Association with the formalities of a deed. The amendment shall be effective when such certificate and copy of the amendment are recorded in the public records of Boone County, Missouri.

ARTICLE VIII.

OPERATING ENTITY

The operation of the Association shall be by Off Broadway Condominium Association, Inc., a corporation not for profit under the laws of the State of Missouri. The Association shall have all of the powers and duties set forth in the Condominium Act, as well as all of the powers and duties granted to or imposed upon it by this Declaration, the Articles of Incorporation, and the By-laws of the Association. A copy of the Articles of Incorporation is attached as Exhibit D and incorporated herein. A copy of the By-laws of the Association is attached as Exhibit E and is incorporated herein.

A. LIMITATION UPON LIABILITY OF ASSOCIATION. Notwithstanding the duty of the Association to maintain and repair parts of the condominium property,

the Association shall be liable for the cost of the property to be replaced or repaired.

B. RESTRAINT. No unit owner shall be liable for the cost of the property to be replaced or repaired.

C. APPROVAL. No unit owner is required to give an approval who would cast the vote for the joinder of the unit owner.

D. ALL OWNERS. The provisions of this Declaration shall apply to all owners of a parcel, whether by deed or transfer by operation of law.

The Condominium Declaration shall fix, determine, and assess the assessments and charges under this Declaration.

A. SHARE OF EXPENSES. Each unit owner shall pay a proportionate share of the expenses as provided in ARTICLE XIII.

B. COMMON ELEMENTS. The use of the common elements shall be limited to the use and management of the property (until such time as the common elements are divided into condominium parcels, in which case, as may be determined by the Board of Directors for fire, windstorm and other damage and condominium parcel accounting fees; and other expenses as to the common elements necessary to protect the condominium parcel and the common elements reserve for replacement of the common elements and other expenses declared in this Declaration.

C. NONAVOIDANCE. No unit owner shall be liable for the cost of the property to be replaced or repaired.

D. INTEREST. Such assessments payable by a unit owner shall not bear interest, and the date when due shall be the date when first applied to the unit owner's account.

# Boone County, Missouri

## Unofficial Document

the Association shall not be liable for the cost of maintenance and repair, caused by any latent condition of the property to be repaired and maintained by the Association, or caused by the elements or other owners or persons.

B. 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.

C. APPROVAL OR DISAPPROVAL OF MATTERS. Whenever the decision of a unit owner is required upon any matter, whether or not the subject matter of an Association meeting, such decision shall be expressed by the same person who would cast the vote of such owner if in an Association meeting, unless the joinder of record owners is specifically required by this Declaration.

D. ALL OWNERS SUBJECT TO DECLARATION. Every owner of a condominium parcel, whether he has acquired his ownership by purchase, by gift, conveyance or transfer by operation of law, or otherwise, shall be bound by the By-laws of the Association, the Articles of Incorporation of the Association, and by the provisions of this Declaration.

### ARTICLE IX.

#### ASSESSMENTS

The Condominium Association, through its Directors, shall have the power to fix, determine, make and collect, from time to time, assessments, and special assessments and such other assessments as are provided for by the Condominium Act, this Declaration and the By-laws.

A. 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 as provided in ARTICLE VI and Exhibit C of this Declaration.

B. COMMON EXPENSES INCLUDE. Common expenses shall include, but not be limited to, the following expenses: Expenses of operation, maintenance and management; property taxes and assessments against the condominium property (until such time as the taxes and assessments are made against the condominium parcels, individually, and thereafter only to such taxes or assessments, if any, as may be assessed against the common property; insurance premiums for fire, windstorm and extended coverage insurance on the condominium property, and condominium personal property, and public liability insurance; legal and accounting fees; expenses associated with caring for the grounds, lawns, pool and deck and other common areas; repair and replacement expenses (but only as to the common elements, except for emergency repairs or replacements deemed necessary to protect the common elements and properly chargeable to the individual condominium parcel concerned); the creation of reasonable contingency or reserve requirements for the protection of members and the condominium property (i.e., reserve for replacements, street and driveway repairs, operating reserve to cover deficiencies in collections, repairs to roofs, gutters, exteriors, etc.); and all other expenses declared by the directors of the Association to be common expenses.

C. NONAVOIDANCE OF ASSESSMENT LIABILITY. The liability for assessments may not be avoided by waiver of the use or enjoyment of any common elements, or by abandonment of the unit against which the assessment is made.

D. INTEREST APPLICATION OF PAYMENTS. Assessments and installments on such assessments paid on or before ten (10) days after the date when due shall not bear interest, but all sums not paid on or before ten (10) days after the date when due shall bear interest at the rate of twelve percent (12%) per annum from the date when first due until paid. All payments upon account shall be first applied to the interest, if any, and then to the assessment payment first due.

# Boone County, Missouri

## Unofficial Document

**LIEN FOR UNPAID ASSESSMENTS.** The Association shall have a lien on each condominium parcel and all tangible personal property located within said unit for unpaid assessments, and interest thereon. Said lien upon the aforesaid tangible personal property shall be subordinate to prior bona fide liens of record. Reasonable attorneys' fees incurred by the Association incident to the collection of such assessments or the enforcement of such lien, together with all sums advanced and paid by the Association for taxes and payments on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien, shall be payable by the unit owner and secured by such lien. The Board of Directors may take such action as it deems necessary to collect assessments by personal action or by enforcing and foreclosing said lien and may settle and compromise the same if deemed in its best interests. Said lien shall be effective as and in the manner provided for by the Condominium Act and shall have the priorities established by said Act. The Association shall be entitled to bid at any sale held pursuant to a suit to foreclose an assessment lien and to apply as a cash credit against its bid all sums due, as provided herein, covered by the lien enforced. In case of such foreclosure, the unit owner shall be required to pay a reasonable rental for the condominium parcel for the period of time said parcel is occupied by the unit owner or anyone by, through or under said unit owner, and plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect same from the unit owner and/or occupant. Suit to recover a money judgment for unpaid assessments may be maintained without waiving the lien securing the same.

**F. NON-LIABILITY OF AND NOTICE TO INSTITUTIONAL MORTGAGEE.** Where the mortgagee of an institutional mortgage of record, or other purchaser of a condominium unit, obtains title to a condominium parcel as a result of foreclosure of the institutional first mortgage, or where an institutional first mortgagee of record accepts a deed to said condominium parcel in lieu of foreclosure, such acquirer of title, its successor and assigns, shall not be liable for the share of common expenses or assessments by the Association pertaining to such condominium parcel, or chargeable to the former unit owner of such parcel, which became due prior to acquisition of title as a result of the foreclosure or acceptance of such deed in lieu of foreclosure. Said unpaid share of common expenses or assessments shall be deemed to be common expenses, collectible from all of the unit owners, including such acquirer, his successors and assigns. A mortgagee (institutional or otherwise), upon request, will be entitled to written notification from the Association of any default in the performance by the mortgagee's mortgagor of any obligation imposed by this declaration and which has not been cured within sixty (60) days after notice of said default to said mortgagor.

**G. LIABILITY WHILE OWNER.** Any person who acquires an interest in a unit, except through foreclosure of an institutional first mortgage of record as specifically provided in the paragraph immediately preceding, including, without limitation, persons acquiring title by operation of law, including purchasers at judicial sales, shall not be entitled to occupancy of the unit or enjoyment of the common elements until such time as all unpaid assessments due and owing by the former unit owners have been paid. The Association, acting through its Board of Directors, shall have the right to assign its claim and lien rights for the recovery of any unpaid assessments to the Developer, or to any unit owner or group of unit owners, or to any third party.

### ARTICLE X.

#### PROVISIONS GOVERNING THE ALIENATION OR MORTGAGE OF THE CONDOMINIUM UNITS

In order to maintain a community of congenial residents who are financially responsible and thus protect the value of the units, the transfer of units by an owner other than the Developer shall be subject to the following provisions as long as the condominium exists and the buildings, in useful condition, exist upon the land, which provisions each owner of a unit covenants to observe. The purpose of these notice provisions is to insure that adjoining unit owners are made aware of an intent to sell the unit comprising a part of the separate condominium building in which said owner's unit is located such

that there will be an opportunity to compete for the purchase of same with other potential buyers thereof. According to the following:

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A. TRANSFERS SUBJECT TO NOTICE TO ADJOINING UNIT OWNERS.

1. Sale or Lease. No unit owner may offer a unit or any interest in a unit for sale or rent without first notifying the owner(s) of the condominium immediately adjacent to the unit for sale as to the fact of said unit's being for sale or rent and the price at which offered.

2. Gift. A unit owner shall be free to transfer his title by gift, without notice to anyone.

3. Devise or Inheritance. A unit owner shall be free to transfer his title by devise or inheritance, without notice to anyone.

B. FORM OF NOTICE. The notice required by this Article shall be in writing and shall be delivered to all of the owners of the adjoining condominium units in a separate building no less than three (3) days prior to the listing for sale of a unit with a real estate broker, the advertising for sale in any newspaper, radio, or television broadcast, or by any other means. Said written notice shall contain the following information:

- 1. Sales price (or rental terms);
2. Possession date;
3. Whether any loan to which the unit is subject is assumable by a purchaser;
4. Whether the Seller is willing to finance any portion of the purchase price.

A copy of said notice shall also be delivered to the Association no less than three (3) days prior to the listing for sale of a unit with a real estate broker, the advertising for sale in any newspaper, radio, or television broadcast, or by any other means.

C. CERTIFICATE OF COMPLIANCE. The Association, upon receipt of the above notice shall furnish the seller with a certificate of compliance with this Article which shall be in properly recordable form for recordation at the Boone County Recorder's Office.

D. MORTGAGE (OR DEED OF TRUST). A unit owner may mortgage the unit or any interest in it without the approval of the Association, including the creation of a Deed of Trust in favor of an institutional mortgagee, or to a vendor to secure a portion or all of the purchase price, without notice to anyone.

E. EXCEPTIONS.

1. The foregoing provisions of this Article X shall not apply to a transfer to or purchase by an institutional mortgagee that acquires its title as the result of owning a mortgage or Deed of Trust upon the unit concerned, and this shall be so whether the title is acquired by Deed from the Mortgagor, his successors or assigns, or through foreclosure proceedings; nor shall such provisions apply to a transfer, sale or lease by an institutional mortgagee that so acquires its title.

2. The foregoing provisions of this Article X shall not apply in the following instances:

a. The sale, lease or sublease of any unit to Developer or the sale, lease, or sublease of any unit by Developer.

b. Any lease or sublease by the owner of a unit to a party approved by Developer or made through the auspices of the Developer.

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F. UNAUTHORIZED TRANSACTIONS. Any sale or lease not complying with the terms of this Article shall be void unless subsequently approved by the Association.

ARTICLE XI.

INSURANCE

The insurance other than title insurance that shall be carried upon the condominium property and the property of the unit owner shall be governed by the following provisions:

A. All insurance policies upon the condominium property shall be purchased by the Board of Directors of the Association. The named insured shall be the Association individually and as agent for the unit owners, without naming them, and as agent for their mortgagees. Provision shall be made for the issuance of mortgagee endorsements and memoranda of insurance to the mortgagees of unit owners. Such policies shall provide that payments by the insurer for losses shall be made to the Association and all policies and their endorsements shall be deposited with the Association. Unit owners may obtain coverage at their own expense upon their personal property and for their personal liability and living expense, and the Association shall have no obligation to insure said personal property and liability.

B. COVERAGE.

1. Liability. The Board of Directors of the Association shall obtain public liability and property damage insurance covering all of the common elements of the condominium development and insuring the Association and the common owners as its and their interest appear, in such amounts and provide such coverage as the Board of Directors of the Association may determine from time to time, provided that the minimum amount of coverage shall be \$100,000.00/\$300,000.00/\$10,000.00.

2. Casualty Insurance. The Board of Directors of the Association shall first obtain fire and extended coverage insurance and vandalism and malicious mischief insurance, insuring all of the insurable improvements within the condominium development, including personal property owned by the Association, in and for interests of the Association, all unit owners and their mortgagees, as their interest may appear, in a company acceptable to the standards set by the Board of Directors of the Association, in an amount equal to the maximum insurable replacement value of the property as determined annually by the Board of Directors of the Association.

3. Workmen's Compensation. If a workmen's compensation policy is necessary to meet the requirements of the laws of the State of Missouri, it shall be obtained by the Association.

4. Flood Insurance. If flood insurance to meet the requirements of federal, state or local law, or any regulation enacted pursuant to federal, state or local law so required, same shall be obtained by the Association.

5. Other Insurance. Such other insurance as the Board of Directors of the Association shall determined from time to time to be desirable may be obtained by the Association.

C. WAIVE SUBROGATION. If available, and where applicable, the Board of Directors of the Association shall endeavor to obtain policies which provide that the insurer waives its rights to subrogation as to any claim against unit owners, the Association, their respective servants, agents and guests.

# Boone County, Missouri

## Unofficial Document

**D. PREMIUMS.** Premiums upon insurance policies purchased by the Board of Directors of the Association shall be paid for the benefit of the Association and the unit owners and the mortgagees as their interests may appear and shall provide that all proceeds covering losses shall be paid to the Association. The duty of the Association shall be to receive such proceeds as are paid and hold the proceeds in trust for the benefit of the unit owners and their mortgagees in the following shares:

1. **Common Elements.** Proceeds on account of damaged common elements--an undivided share for each unit owner, such share being the same as an undivided share in the common elements appurtenant to his unit.

2. **Units.** Proceeds on account of damage to units shall be held in the following undivided shares:

a. Where the building is to be restored--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 Board of Directors of the Association.

b. When the building is not to be restored--an undivided share for each unit owner, such share being the same as the undivided share in the common elements appurtenant to his unit.

3. **Mortgagees.** In the event a mortgagee endorsement has been issued on a unit, the share of the unit owner shall be held in trust for the mortgagee and the unit owner as their interest may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distribution of such proceeds made to the unit owner and mortgagees pursuant to the provisions of this Declaration.

**E. DISTRIBUTION OF PROCEEDS.** Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the beneficial owners in the following manner:

1. **Reconstruction or Repair.** If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost of such 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 such mortgagee.

2. **Failure to Reconstruct or repair.** If it is determined in the manner elsewhere provided that the damage for which proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, remittances to unit owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a unit and may be enforced by such mortgagee. In the event of loss or damage to personal property belonging to the Association, and should the Board of Directors of the Association determine not to replace such personal property as may be lost or damaged, the proceeds shall be disbursed to the beneficial owners as surplus, in the manner elsewhere stated herein.

# Boone County, Missouri

## Unofficial Document

3. **Certificate.** In making distribution to unit owners and their mortgagees, the Association may rely upon a certificate of the Board of Directors of the Association, as to the names of the unit owners and their respective shares of the distribution, provided, however, that such certificate shall not be binding insofar as mortgagees of units are concerned. The Association shall obtain appropriate certificates from all such mortgagees prior to any disbursement to owners or mortgagees.

### ARTICLE XII.

#### RECONSTRUCTION OR REPAIR AFTER CASUALTY

A. **LOSS WITHIN A SINGLE UNIT.** If loss shall occur within a single unit or units, without damage to the common elements and/or the party wall between units, the insurance proceeds shall be distributed to the beneficial unit owner(s)--remittance 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 said mortgagee. Said remittance shall be made solely to an institutional first mortgagee when requested by such institutional mortgagee whose mortgage provides that it has the right to require application of the insurance proceeds to the payment or reduction of its mortgage debt. The unit owner shall thereupon be fully responsible for the restoration of the unit.

B. **MINOR DAMAGE.** Where a loss or damage occurs within a unit or units, or to the common elements or to any unit or units and the common elements, but said loss is less than "major damage" as hereinafter defined, it shall be obligatory upon the Association and the unit owner(s) to repair, restore, and rebuild the damage caused by said loss. Where such loss or damage is less than "major damage":

1. The board of Directors of the Association shall promptly obtain reliable and detailed estimate of the costs of repair and restoration.

2. If the damage or loss is limited to the common elements, with no, or minimum damage or loss to any individual units, and if such damage or loss to the common elements is less than \$10,000.00, the insurance proceeds shall be made payable to the Board of Directors of the Association, and the Association shall promptly contract for the repair and restoration of the damage.

3. If the damage or loss involves individual units, individual units encumbered by institutional first mortgages, as well as the common elements and/or the party wall between units, or if the damage is limited to the common elements along or the party wall between units, but is in excess of \$10,000.00, the insurance proceeds shall be disbursed by the Association for the repair and restoration of the property upon the written direction and approval of the Board of Directors of the Association, provided, however, that upon the request of an institutional first mortgagee, the written approval shall also be required of the institutional first mortgagee owning and holding the first recorded mortgage encumbering a condominium unit, so long as it owns and holds any mortgage encumbering a condominium unit. At such time as the aforesaid institutional first mortgagee is not the holder of a mortgage on a unit, then its right of

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# Boone County, Missouri

## Unofficial Document

approval or disapproval shall pass to the institutional first mortgagee having the highest dollar indebtedness on units in the condominium property. Said written approval shall not be unreasonably withheld. Should written approval be required, as aforesaid, it shall be said mortgagee's duty to give written notice thereof to the Association. The Association may rely upon the certificate of the aforesaid institutional first mortgagee, if said institutional first mortgagee's written approval is required, as to the payee and the amount to be paid from said proceeds. All payees shall deliver paid bills and waivers of mechanic's liens to the Association and execute any affidavit required by law or by the Association or the aforesaid institutional first mortgagee, and deliver same to the Association, and the foregoing shall be in such form as any of the aforesaid parties may require. In addition to the foregoing the institutional first mortgagee whose approval may be required, as aforesaid, shall have the right to require the Board of Directors of the Association, to obtain a completion, performance and payment bond, in such form and amount, and with a bonding company authorized to do business in the State of Missouri as are acceptable to the said mortgagee.

4. Subject to the foregoing the Board of Directors of the Association shall have the right and obligation to negotiate and contract for the repair and restoration of the premises.

5. If the net proceeds of the insurance are insufficient to pay for the estimated costs of restoration and repair (or for the actual costs thereof if the work has actually been done), the Board of Directors of the Association shall promptly, upon the determination of the deficiency, levy a special assessment against all unit owners in proportion to the unit owners' share in the common elements, for the portion of the deficiency as is attributable to the cost of restoration of the common elements, and against the individual owners for the portion of the deficiency as is attributable to his individual unit, provided, however, that if the Board of Directors of the Association, finds that it cannot determine with reasonable certainty the portion of the deficiency attributable to a specific individual damaged unit(s), then the Board of Directors of the Association shall levy an assessment for the total deficiency against all of the unit owners in proportion to the unit owner's share in the common elements, just as though all said damage had occurred in the common elements. Special assessment funds shall be added by the Association to the proceeds available for the repair and restoration of the property.

6. In the event the insurance proceeds are sufficient to pay for the cost of restoration and repair, or in the event the insurance proceeds are insufficient but additional funds are raised by special assessment within ninety (90) days after the casualty, so that sufficient funds are on hand to fully pay for such restoration and repair, then no mortgagee shall have the right to require the application of insurance proceeds to the payment of its loan, provided, however, that this provision may be waived by the Board of Directors in favor of any institutional first mortgagee upon request thereof, at any time. To the extent that any insurance proceeds are required to be paid over to such mortgagee, the unit owner shall be obliged to replenish the funds so paid over, and said unit owner and his unit shall be subject to special assessment for such sum.

C. MAJOR DAMAGE. As used in this Declaration, or any other context dealing with this condominium development, the term "major damage" shall mean loss or damage whereby three-fourths (3/4ths) or more of the total unit space in all condominium buildings is rendered untenable, or loss or damage whereby seventy-five percent (75%) or more of the total amount of casualty insurance coverage with respect to all condominium buildings becomes payable. Should such "major damage" occur, then:

1. The Board of Directors of the Association shall promptly obtain reliable and detailed estimates of the cost of repair and restoration thereof.

2. Thereupon a meeting of the unit owners shall be called by the Board of Directors of the Association, to be held not later than sixty (60) days after the casualty, to determine the wishes of the unit owners of this

# Boone County, Missouri

## Unofficial Document

condominium development with reference to the abandonment of the condominium project, subject to the following:

a. If the net insurance proceeds available for restoration and repair are sufficient to cover the costs thereof so that no special assessment is required, then the condominium properties shall be restored and repaired, unless two-thirds (2/3) of the unit owners of this condominium development shall vote to abandon the condominium project, in which case the condominium property shall be removed from the provisions of the law by the recording in the public record of Boone County, Missouri, an instrument terminating this condominium, which said instrument shall further set forth the facts affecting the termination certified by the Association and executed by its President and Secretary. The termination of the condominium development shall become effective upon the recording of said instrument, and the unit owners shall, thereupon, become owners as tenants in common in the property, i.e., the real, personal, tangible and intangible personal property, and any remaining structures of the condominium, and their undivided interests in the property shall be the same as their undivided interests in the common elements of this condominium prior to its termination, and the mortgages and liens upon condominium parcels shall become mortgages and liens upon the undivided interest of such tenants in common, with the same priority as existed prior to the termination of the condominium.

b. If the net insurance proceeds available for restoration and repair are not sufficient to cover the costs thereof, so that a special assessment will be required, and if a majority of the unit owners of this condominium development vote against such special assessment and to abandon the condominium project, then it shall be so abandoned and the condominium property removed from the provisions of the law, and the condominium terminated, as set forth in the immediately preceding sub-paragraph a, and the unit owners shall be tenants in common in the property in such undivided interests and all mortgages and liens upon the condominium parcels shall encumber the undivided interests of such tenants in common, as provided in the immediately preceding subparagraph a. In the event a majority of the unit owners of this condominium vote in favor of special assessments, the Board of Directors of the Association, shall immediately levy such special assessment, and thereupon the Association shall proceed to negotiate, and contract for such repairs and restoration, subject to the provisions of paragraph B. 3. above. The special assessment fund shall be added to the proceeds available for the restoration and repair of the property by the Association. The proceeds shall be disbursed by the Association for the repair and restoration of the property, as provided in paragraph B. 3. above.

3. In the event any dispute shall arise as to whether or not "major damage" has occurred, it is agreed that such finding made by the Board of Directors of the Association shall be binding upon all unit owners.

D. **SURPLUS.** It shall be presumed that the first monies distributed in payment of costs of repair and restoration shall be from the insurance proceeds; and if there is a balance in the funds held by the Association after the payment

# Boone County, Missouri

of all costs of the repair and restoration, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere stated herein.

**E. PLANS AND SPECIFICATIONS.** Any repair and restoration must be substantially in accordance with the plans and specifications for the original building, or as the building was last constructed, or according to the plans approved by the Board of Directors of the Association, which approval shall not be unreasonably withheld. If any material or substantial change is contemplated, the approval of all institutional first mortgagees shall also be required.

**F. ASSOCIATION'S POWER TO COMPROMISE CLAIMS.** The Board of Directors of the Association is hereby irrevocably appointed agent for each unit owner and for each owner of a mortgage or other lien upon a unit and for each owner of any other interest in the condominium property, for the purpose of compromising and settling all claims arising under insurance policies purchased by the Board of Directors of the Association and to execute and deliver releases therefor upon payment of claims.

**G. INSTITUTIONAL MORTGAGEE'S RIGHT TO ADVANCE PREMIUMS.** Should the Association fail to pay such premiums when due, or should the Association fail to comply with other insurance requirements, the institutional mortgagee holding the greatest dollar volume of unit mortgages shall have the right, at its option, to order insurance policies and to advance such sums as are required to maintain or procure such insurance, and to the extent of the money so advanced, said mortgagee shall be subrogated to the assessment and lien rights of the Association as against the individual unit owners for the payment of such item of common expense.

## ARTICLE XIII.

### USE AND OCCUPANCY RESTRICTIONS

The use of the condominium property shall be in accordance with the following provisions as long as the condominium development exists and the buildings, in useful condition, exist upon the land.

**A. UNITS.** Each of the units shall be occupied only by a family (as defined by the ordinance of the City of Columbia), its servants and guests, as a residence and for no other purpose. Except as reserved to Developer, no unit shall be divided or subdivided into smaller units nor any portion sold or otherwise transferred without first amending this Declaration to show the changes in the units to be affected.

Whenever any unit is owned by a corporation, partnership, trust or other entity (other than Developer), the aforementioned entities shall only permit use of the unit by its principal officers, directors, agents or guests, provided, however, that such unit owner shall sign and deliver to the Board of Directors of the Association, a written statement designating the name of the party or parties entitled to use such unit from time to time, together with a written covenant of the party or parties entitled to use such unit, in favor of the Association, whereby such party or parties agree to comply with the terms and provisions of the Declaration of Condominium, and of the rules and regulations which may be promulgated by the Association from time to time, acknowledging that the party's or parties' right to use such unit shall be existent only so long as the corporation shall continue to be a member of the Association. Upon demand by the Association to any of the aforementioned unit owners to remove any party given permission to use a unit owned by such owner, for failure of such user to comply with the terms and provisions of the Declaration of Condominium and/or of the rules and regulations of the Association or for any other reasons, and said owner shall forthwith cause such user to be removed, failing which, the Association, as agent of the owner, may take such action as it may deem appropriate to accomplish the removal of such user, and all such action by the Association shall be at the cost and expense of the owner who shall reimburse the Association therefor upon demand, together with such attorney's fees as the Association may have incurred in the premises.

**B. COMMERCIAL USE.** No unit shall be used for any purpose for which the building was not originally designed or for the enjoyment of the building.

**C. PETS.** No animal shall be kept on any property, except as may be permitted by the Board of Directors of the Association, without cause, and if an animal is kept on any property, the animal shall be kept in a suitable enclosure and shall not be a nuisance or a hazard to the health, safety or welfare of the other residents of the building. The Board of Directors of the Association may, at its discretion, require that any animal kept on any property be kept in a suitable enclosure and shall not be a nuisance or a hazard to the health, safety or welfare of the other residents of the building.

**D. NUISANCES.** No unit owner shall use any part of the property or any part of the building in a manner which constitutes a nuisance or a hazard to the health, safety or welfare of the other residents of the building, or which interferes with the use and enjoyment of the building by the other residents.

**E. LAWS.** The Board of Directors of the Association may, at its discretion, require that any unit owner comply with any laws, ordinances, rules or regulations of the City of Columbia, Missouri, which apply to the use of the building or the property.

**F. EMPLOYMENT.** No unit shall be used for any purpose other than as a residence, and no unit shall be used for any purpose which requires the employment of more than a limited number of persons.

**G. EXTERIOR APPEARANCE.** The exterior appearance of the building shall be maintained in a neat and attractive condition. The Board of Directors of the Association may, at its discretion, require that any unit owner comply with any rules and regulations of the Association regarding the exterior appearance of the building.

**H. CONSTRUCTION.** No unit shall be used for any purpose which requires the construction of any building or structure on the property.

**I. PESTS.** No unit shall be used for any purpose which requires the presence of any pest or vermin.

**J. FLOODING.** No unit shall be used for any purpose which requires the presence of any flood or overflow of water.

# Boone County, Missouri

**UNOFFICIAL DOCUMENT**  
COMMON ELEMENTS shall mean those common elements which are used only for the purpose for which they are intended in the furnishing of services and facilities for the enjoyment of the units

**C PETS** No animals or pets of any kind shall be kept in any unit or on any property of the condominium except with the written consent of and subject to, the rules and regulations adopted for keeping such pets by the Board of Directors of the Association, provided that such consent may be terminated, without cause at any time, by the Board of Directors of the Association. No animal shall be allowed to create or cause any disturbance or nuisance of any kind and if an animal or pet does cause or create a nuisance of any kind and if an animal or pet does cause or create a nuisance or an unreasonable disturbance said animal or pet shall be permanently removed from the property within three (3) days from the day the owner receives written notice from the Board of Directors of the Association. The owner of any pet or animal shall be liable for any and all damages caused by such animal or pet to any part of the condominium property or any other property operated by the Association.

**D NUISANCES** No nuisances shall be allowed either upon the condominium property or any property operated by the Association. No use or practice which is either an annoyance to residents or an interference with the peaceful possession and proper use of the property by the residents shall be allowed. All parts of the condominium shall be kept in a clean and sanitary condition, and no rubbish, refuse, or garbage allowed to accumulate or any fire hazard allowed to exist. No unit owner shall permit any use of his unit or make any use of the common elements that will increase the cost of insurance upon the condominium property.

**E LAWFUL USE** No immoral, improper, offensive or unlawful use shall be made of the condominium property, or any other property operated by the Board of Directors of the Association. All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the requirements of governmental bodies for maintenance, modification or repair of the condominium property shall be the same as the responsibility for maintenance and repair of the property concerned.

**F EMPLOYEES AND SERVANTS** No employee or servants of a unit owner shall be allowed to use any of the facilities which are common elements of the condominium property for his or her personal use.

**G EXTERIORS** No change shall be made in the color of any exterior window, door, storm shutter, glass or screen, except with the prior written consent of the Board of Directors of the Association. All shutters, and reflective window covering, or other such covering of exterior doors and windows shall be uniform in color as prescribed by the Board of Directors of the Association. The unit owner shall not cause anything to be affixed, attached to, hung, displayed or placed on the exterior walls, including awnings and/or storm shutters, doors or windows of the building, nor shall the unit owner place any furniture, machinery or equipment outside his unit, except with the prior written consent of the Board of Directors of the Association, and further, when approved, subject to the rules and regulations adopted by the Board of Directors of the Association. No clothesline or similar device shall be allowed on any portion of the condominium property nor shall clothes be hung anywhere except where designated by the Board of Directors of the Association.

**H COMMERCIAL ACTIVITIES** No commercial activities or equipment shall be permitted in any unit or elsewhere without the written consent of the Board of Directors of the Association.

**I. REGULATIONS** Reasonable regulations concerning the use of the condominium property may be made and amended from time to time by the Board of Directors of the Association.

**J FLOOR COVERINGS (NOISE ABATEMENT)** No noise shall be permitted to be transmitted from one unit to another. In the event the Board of Directors of the Association determines that any noise is being transmitted to another unit and that such noise is unreasonable (regardless of whether that unit is beside or wherever situated in relation to the offending unit), then the owner of such unit shall, at his own expense, take such steps as shall be necessary to abate such noise to the satisfaction of the Board of Directors of the Association.

# Boone County, Missouri

## Unofficial Document

PROVISO. Provided, however, that until Developer has completed all of the contemplated improvements and closed the sales of all of the units of the condominium development, neither the unit owners nor the Association, nor the use of the condominium property by the aforesaid parties, their agents, guests, licensees, or invitees, shall interfere with the completion of the contemplated improvements and the sale of the units. Developer may make such use of the unsold units and common areas as may facilitate such completion and sale of the units.

L. RESERVED RIGHTS OF DEVELOPER. So long as Developer shall own any units, Developer shall have the absolute right to lease such units, for such term or terms as Developer shall determine, in its sole discretion; or to sell such units to any person, firm, corporation, or partnership, upon such terms and conditions as it shall deem to be in its best interests; and as to said lease or sale, the provisions of Article X, captioned "Provisions Governing the Alienation or Mortgage of the Condominium Units," shall not apply.

The Developer reserves, for a period of time terminating five (5) years after the date of this Declaration, the right to remove any party wall between any condominium units in order that the said units might be used together as one integral unit. In each event, all assessments, voting rights and the share of the common elements shall be calculated as if such units were as originally designated on the exhibits attached to this Declaration, notwithstanding the fact that several units are used as one, to the intent and purpose that the unit owner of such combined units shall be treated as the unit owner of as many units as have been so combined.

The first election of directors of the Association shall not be held until either all of the units of the condominium have been sold by the Developer or until December 31, 1985, or until Developer elects to terminate its control of the condominium, whichever shall first occur. The directors named in the Articles of Incorporation of the Association shall serve until the first election of directors, and any vacancies in their number occurring before the first election shall be filled by the remaining directors. Provided, however, in any election of directors, so long as Developer is the owner of five (5) or more units, Developer shall have the right to designate and select a majority of the persons who shall serve as members of the Board of Directors of the Association, and, provided further, that so long as the Developer is the owner of at least one (1), but not more than five (5) units, Developer shall have the right to designate and select one of the persons who shall serve as a member of the Board of Directors of the Association.

Whenever Developer shall be entitled to designate and select any person or persons to serve on any Board of Directors of the Association, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or By-Laws of the Association, and Developer shall have the right to remove any person or persons selected by it to act and serve on said Board of Directors, and to replace such person or persons with another person or persons to act and serve in the place of any director or directors so removed for the remainder of the unexpired term of any director or directors so removed. A director designated and selected by Developer need not be a resident of the condominium. Any representative of Developer, serving on the Board of Directors, shall not be required to disqualify himself upon any vote or other matter between Developer and the Association where the said Developer may have a pecuniary or other interest.

### ARTICLE XIV.

#### MAINTENANCE, ALTERATIONS AND IMPROVEMENTS

Responsibility for the maintenance of the condominium property and restrictions upon its alteration and improvement shall be as follows:

##### A. UNITS.

1. By the Association. The Association shall maintain, repair and replace at the Association's expense:

# Boone County, Missouri

a. All portions of a unit, except interior surfaces, contributing to the support of the building; all outside walls of the building and all fixtures on its exterior, boundary and party walls of units, floor slabs, load bearing columns and load bearing walls; and

b. All incidental damages caused to a unit by such work shall be repaired promptly at the expense of the Association.

2. By the Unit Owner. The unit owner, at said unit owner's separate and sole expense, shall maintain, repair and replace, in good repair and condition, the following:

a. His or her unit and all interior surfaces within his unit, and the entire interior of his unit, and to maintain and repair the fixtures and equipment therein, which includes but is not limited to the following where applicable: air-conditioning and heating unit including condenser and all appurtenances thereto, wherever situated, and hot water heater, refrigerator, stove, dishwasher, and all other appliances, drains, plumbing fixtures and connections, sinks, all plumbing and water lines within the unit, electric panels, electric wiring and electric outlets and fixtures within the unit; interior doors, windows, screening and glass, all exterior doors, except the painting of the exterior of exterior doors shall be a common expense of the condominium; all outside windows, screens, and sliding doors; and pay for all his utilities. Where a unit is carpeted, the cost of maintaining and replacing the carpeting shall be borne by the owner of said unit. Each unit owner shall maintain, care for and preserve portions of the limited common elements, as provided in Article XV of this Declaration, captioned "Limited Common Elements."

b. All exterior air-conditioning or heat pump machinery serving a unit, all exterior lights controlled by an interior switch, all exterior doornobs and water spigots, all conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services contained in the portion of a unit; and all such facilities contained within a unit that serve part or parts of the condominium unit within which contained.

3. Additional covenants by Unit Owners. Each unit owner separately agrees and covenants as follows:

a. Not to make or cause to be made any structural addition or alteration to his unit or to the limited common elements or common elements. Alterations within a unit may be made with the prior written consent of the Association, and any first mortgagee holding a mortgage on his unit.

b. To make no alterations, decoration, repair, replacement or change of the common elements, limited common elements, or to any outside or exterior portion of the building(s), whether within a unit or part of the limited common elements or common elements without the prior written consent of the Association. Unit owners may use such contractors or subcontractors as are approved by the Association and said parties shall comply with all rules and regulations adopted by the Board of Directors. The unit owner shall be liable for all damages to another unit, the common elements or the condominium property, caused by the unit owner's contractor, subcontractor, or employee, whether said damages are caused by negligence, accident or otherwise.

c. To display no sign, advertisement or notices of any type on the common elements, limited common elements, or

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# Boone County, Missouri

his unit, and to erect no exterior antenna or  
aerials, except as consented to by the Board of  
Directors of the Association.

d. To refrain from painting or otherwise decorating  
or changing the appearance of any portion of the  
exterior of the building. The Board of Directors of  
the Association shall determine the exterior color  
scheme of the building and all exteriors and shall  
be responsible for the maintenance thereof. Screens  
shall be installed or removed from time to time in the  
sole discretion of the Association.

## B. COMMON ELEMENTS.

1. By the Association. The maintenance and operation of the common elements shall be the responsibility of the Association and a common expense. Where a portion of the condominium is subject to a mutual access drive easement, the cost of maintaining said easement area shall be a common expense and borne by the Association.

### 2. Alteration and Improvement.

a. There shall be no alterations or additions to the common elements of this condominium where the cost thereof is in excess of ten percent (10%) of the annual budget of this condominium for common expenses except as authorized by the Board of Directors and approved by not less than seventy-five percent (75%) of the unit owners of this condominium; provided the aforesaid alterations or additions do not prejudice the right of any unit owner unless his consent has been obtained. The cost of the foregoing shall be assessed as common expenses. Where any alterations or additions, as aforesaid, are exclusively or substantially exclusively for the benefit of a unit owner or owners requesting same, then the cost of such alterations or additions shall be assessed against and collected solely from the unit owner(s) exclusively or substantially exclusively benefiting, and the assessment shall be levied in such proportion as may be deemed fair and equitable by the Board of Directors of the Association. Where such alterations or additions exclusively or substantially exclusively benefit unit owners requesting same, said alterations or additions shall only be made when authorized by the Board of Directors and approved by not less than seventy-five percent (75%) of the unit owners exclusively or substantially exclusively benefiting therefrom, and where said unit owners are ten (10) or less, the approval of said unit owners shall be required.

b. Unit Owners. A unit owner shall not make or cause to be made any structural addition or alteration of his unit, or to the limited common elements, or common elements. Alterations within a unit may be made with the prior written consent of the Association and any first mortgagee holding a mortgage on said unit.

c. Institutional Mortgagees. The cost of the work referred to in paragraph B.2.a. of this Article shall not be assessed against an institutional mortgagee that acquires title as the result of owning a mortgage upon the owned unit, unless such owner shall approve the alteration or improvement, and this shall be so whether title is acquired by deed, from the mortgagor, or through foreclosure proceedings. (Where the approval of unit owners for alteration or additions to the common elements or limited common elements of this condominium is required in this Declaration and exhibits attached hereto, the approval of the institutional first mortgagees, whose

# Boone County, Missouri

## Unofficial Document

mortgages encumber condominium parcels in this condominium representing not less than seventy percent (70%) of the total unpaid dollar indebtedness as to principal on said parcels at said time shall also be required.)

### C. MISCELLANEOUS.

1. Providing for Maintenance and Repair. The Board of Directors of the Association may enter into a contract with any firm, person or corporation, or may join with other condominium associations and entities in contracting for the maintenance and repair of the condominium property and other type properties, and may contract for or may join with other condominium associations in contracting for the management of the condominium property and other type properties, and may delegate to the contractor or manager, all the powers and duties of the Association, except such as are specifically required by this Declaration or by the By-Laws, to have the approval of the Board of Directors or the Membership of the Association.

2. Access. The Board of Directors of the Association, or the agents or employees of the Association shall, at all reasonable times, have access to all parts of the common elements. The unit owner shall allow the Board of Directors, or the agents or employees of the Association, to enter into any unit for the purpose of maintenance, inspection, repair, or replacement of the improvements within the units or the common elements, or to determine in case of emergency, circumstances threatening units or the common elements, or to determine compliance with the provision of this Declaration and the By-laws of the Association.

### ARTICLE XV.

#### LIMITED COMMON ELEMENTS

DEFINED: APPROPRIATION OF EXPENSES. Those areas reserved for the use of certain unit owners, or a certain unit owner, to the exclusion of other unit owners, are designed as "limited common elements" and are shown and located on the surveys annexed hereto as Exhibit A. Any expenses for the maintenance, repair or replacement relating to the limited common elements shall be treated as and paid for as part of the common expenses of the Association unless otherwise specifically provided in this Declaration and exhibits attached hereto. Should said maintenance, repair or replacement be caused by the negligence or misuse by a unit owner, his family, guests, servants, invitees, and licensees, he shall be responsible therefor, and the Association shall have the right to levy an assessment against the owner of said unit, which assessment shall have the same force and effect as all other special assessments. Where the limited common elements consists of a patio, driveway or sidewalk, the unit owner who has the right to the exclusive right of said patio, driveway or sidewalk shall be responsible for the maintenance, care and preservation of same.

### ARTICLE XVI.

#### TERMINATION

A. This condominium may be voluntarily terminated in the manner provided for in the Condominium Act, at any time. In addition thereto, when there has been "major damage," as defined in Article XII, captioned "Reconstruction or Repair after Casualty," this condominium shall be subject to termination, as provided in said Article XII. In addition thereto, if the proposed voluntary termination is submitted to a meeting of the membership of the Association, pursuant to notice, and is approved in writing within sixty (60) days of said meeting by three-fourths (3/4) of the total vote of the members of the Association, and by all institutional mortgagees, then the Association and the approving owners shall have the option to purchase all of the parcels of the other owners within a period expiring one hundred twenty (120) days from the date of such meeting. Such approval shall be irrevocable until the expiration of the option, and if the option is exercised, the approval shall be irrevocable. The option shall be exercised upon the following terms:



# Boone County, Missouri

1. Exercise of Option. An agreement to purchase, executed by the Association and/or the record owners of the parcels who will participate in the purchase, shall be delivered by personal delivery or mailed by certified or registered mail, to each of the record owners of the parcels to be purchased, and such delivery shall be deemed the exercise of the option. The agreement shall indicate which parcels will be purchased by each participating owner and/or the Association, and shall require the purchase of all parcels owned by owners not approving the termination. But the agreement shall effect a separate contract between each seller and his purchaser.

2. Price. The sale price for each unit shall be the fair market value determined by agreement between the seller and the purchaser, within thirty (30) days from the delivery or mailing of such agreement; and in the absence of agreement as to price, it shall be determined by appraisers appointed pursuant to a declaratory judgment action by the Circuit Court in and for Boone County, Missouri, on the petition of seller. The expenses of appraisal and all court costs shall be paid by the purchaser.

3. Payment. The purchase price shall be paid in cash.

4. Closing. The sale shall be closed within thirty (30) days following the determination of the sale price.

B. CERTIFICATE. The termination of the condominium in either of the foregoing manners shall be evidenced by a certificate of the Association executed by the President and Secretary certifying as to the fact of the termination, which certificate shall become effective upon being recorded in the public records of Boone County, Missouri.

C. AMENDMENT. This section concerning termination cannot be amended without consent of all unit owners and of all record owners of mortgages upon the units.

## ARTICLE XVII.

### POOL AND FACILITIES

A. RULES AND REGULATIONS GOVERNING USE OF POOL AND FACILITIES. The use and enjoyment of the pool and facilities shall be subject to the rules and regulations promulgated by the Association. The initial rules and regulations and all amendments thereto, and revisions thereof, shall be posted in a conspicuous place in the pool area. The unit owners hereby covenant and agree to be bound by all of such rules and regulations and said parties shall obey same and be responsible for their being obeyed by said unit owners, their family, guests, invitees, licensees, and servants.

B. PENALTIES FOR FAILURE TO PAY ASSESSMENT: FAILURE TO CONFORM TO RULES AND REGULATIONS. Should a unit owner fail to pay an assessment or common expenses, as required under the terms of this Declaration of Condominium, the Association may deny the unit owner and/or the authorized user of the pool and facilities area the use and enjoyment of same until such time as all assessments are paid. The Association shall further have the right, in its sole discretion, to suspend any unit owner and/or authorized user of the pool and facilities area from the use of the same for a period of no more than thirty (30) days, for any infraction of the promulgated rules and regulations pertaining to said facilities. Should the unit owner or authorized user of the pool and facilities area be suspended from using the facilities, there shall be no reduction in the assessments due and payable by said unit owner or authorized user.

## ARTICLE XVIII.

### MISCELLANEOUS PROVISIONS

A. EASEMENT FOR ENCROACHMENT. The owners of the respective condominium units agree that if any portion of a condominium unit or common element or limited common element encroaches upon another, a valid easement for the encroachment

and maintenance of a condominium and then rebuilt on parts of the as aforesaid easement for s

B. COVE exhibits attached running with the but not limited owner and occup therein, and he be bound by all and any amendme

C. INVA of this Declar. Association, or word, or the a validity of the tion, or the Co action, sentence be affected the

D. NOTIC same may be del to such unit or unless the unit different addre tion shall be g ing said notice the Secretary c development, or Association at any member of t

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# Boone County, Missouri

and maintenance of same so long as it stands, shall and does exist. In the event a condominium building or buildings are partially or totally destroyed and then rebuilt, the owners of the condominium interests agree that encroachments on parts of the common elements or limited common elements or condominium units, as aforesaid, shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

**B COVENANTS RUN WITH THE LAND** All provisions of this Declaration and exhibits attached hereto, and amendments thereof, shall be construed as covenants running with the land, and of every part thereof and interest therein, including but not limited to every unit and the appurtenances thereto, and every unit owner and occupant of the property, or any part thereof, or of any interest therein and his heirs, executors, administrators, successors and assigns, shall be bound by all of the provisions of said Declaration and exhibits annexed hereto and any amendments thereof.

**C INVALIDITY OF A PART WILL NOT AFFECT THE WHOLE** If any of the provisions of this Declaration or of the By-laws, the Articles of Incorporation of the Association or of the Condominium Act or any article, section, clause, phrase, word, or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration, the By-laws and Articles of Incorporation or the Condominium Act and of the application of any such provision, action, sentence, clause, phrase, or word, in other circumstances, shall not be affected thereby.

**D NOTICES** Whenever notices are required to be sent hereunder, the same may be delivered to unit owners, either personally or by mail, addressed to such unit owners at their place of residence in the condominium development, unless the unit owner has, by written notice duly received for, specified a different address. Proof of such mailing or personal delivery by the Association shall be given by the affidavit of the person mailing or personally delivering said notices. Notices to the Association shall be delivered by mail to the Secretary of the Association, at the Secretary's residence in the condominium development, or in case of the Secretary's absence, then the President of the Association at his residence in the condominium development, and in his absence, any member of the Board of Directors of the Association.

Notices to the Developer shall be delivered by mail at 1107 East Ash, Columbia, Missouri, 65201.

All notices shall be deemed and considered sent when mailed. Any party may change his or its mailing address by written notice, duly received for. Notices required to be given the personal representatives of a deceased owner or devisee, when there is no personal representative, may be delivered either personally or by mail, to such party at his or its address appearing in the records of the court wherein the estate of such deceased owner is being administered.

The change of the mailing address of any party, as specified herein, shall not require an amendment to the Declaration.

**E REMEDY FOR VIOLATION** The remedies for violations of these declarations which are provided herein or which are provided for by §448.080 R.S.Mo. of the Condominium Act, shall be in full force and effect. In addition thereto, should the Association find it necessary to bring a court action to bring about compliance with the law, this Declaration and exhibits attached to this Declaration upon a finding by the court that the violation complained of is willful and deliberate, the unit owner so violating shall reimburse the Association for any reasonable attorneys' fees incurred by it in bringing such action, as determined by the court.

**F CONSTRUCTION OF DECLARATION** The provisions of the Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a condominium development.

**G CAPTIONS** The captions used in this Declaration of Condominium and exhibits annexed hereto, are inserted solely as a matter of convenience and

# Boone County, Missouri

## Unofficial Document

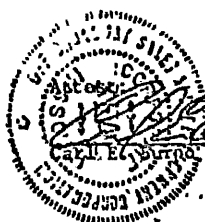
shall not be relied upon and/or used in construing the effect or meaning of any of the text of this Declaration or exhibits hereto annexed.

H. POSITION OF INSTITUTIONAL FIRST MORTGAGEE. Where an institutional first mortgagee, by some circumstances, fails to perfect its mortgage or deed of trust lien, but it is evident that it is intended to be a first mortgage or deed of trust, it shall, nevertheless for the purpose of this Declaration and exhibits annexed, be deemed to be an institutional first mortgagee.

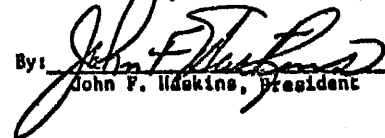
I. PEDESTRIAN AND VEHICULAR EASEMENTS. The real property submitted to condominium ownership herewith is subject to easements for ingress and egress for pedestrian and vehicular purposes, including the driveway easements, as designated on Exhibit A attached hereto.

J. PARKING SPACES. Automobile parking will be made available to unit owners so that the occupants of each unit will be entitled to parking for two automobiles without charge. The parking driveways adjacent to each unit are located on the condominium property as shown by the survey and drawings attached hereto as Exhibit A. The Board of Directors of the Association may, or may not, in its discretion, assign such other specific parking spaces to the unit owners of this condominium as it may determine. If an assignment of such other parking spaces is made, such assignment shall not be recorded in the public records of Boone County, Missouri. The Board of Directors of the Association shall have the right to change the assignment of such other specific parking spaces from time to time as to the unit owners in this condominium as it deems advisable and in its sole discretion; however, a unit owner shall always be entitled to park in the driveway adjacent to his unit.

IN WITNESS WHEREOF, an officer of OFF BROADWAY SALES AND DEVELOPMENT CORPORATION, a Missouri corporation, has signed this Declaration on this 2nd day of March, 1981.

  
Carl E. Burro, Jr., Secretary

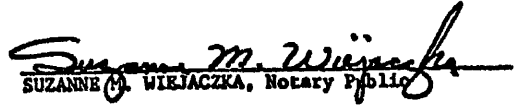
OFF BROADWAY SALES AND DEVELOPMENT CORPORATION,  
a Missouri Corporation, "Developer"

By:   
John F. Haskins, President

State of Missouri )  
County of Boone )

On this 2nd day of March, 1981, before me, a Notary Public in and for said state, personally appeared John F. Haskins, President of Off Broadway Sales and Development Corporation, known to me to be the person who executed the foregoing instrument on behalf of said corporation and acknowledged to me that he executed the same for the purposes therein stated.



  
SUZANNE M. WIAZACKA, Notary Public

My Commission expires September 22, 1984.

Boone County, Missouri

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SURVEY, SITE PLAN AND PLAT

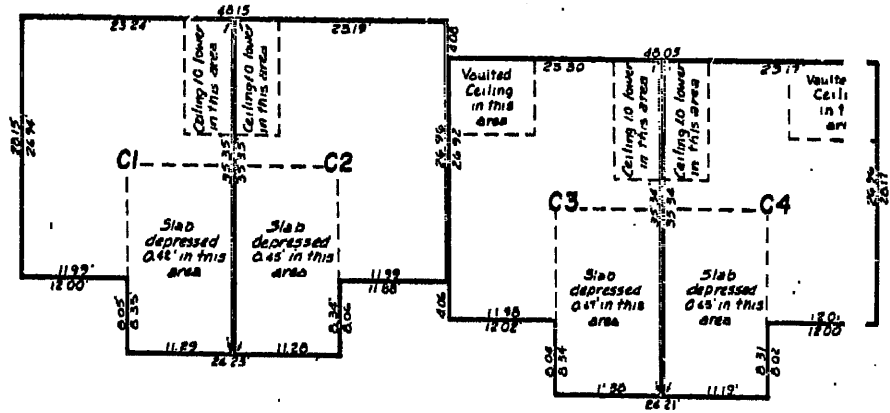
Nora Dietzel, Recorder of Deeds

# Boone County, Missouri

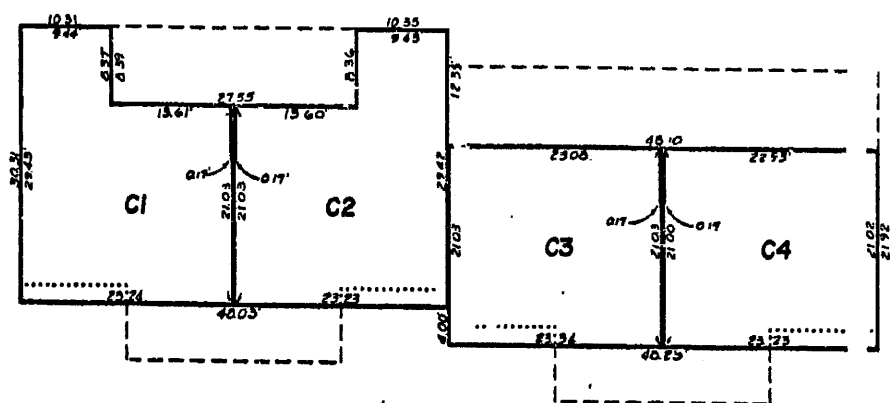
## Unofficial Document

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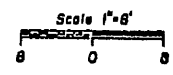
### DIAGRAMMETRICAL PLANS



Ground Floor Plan



First Floor Plan

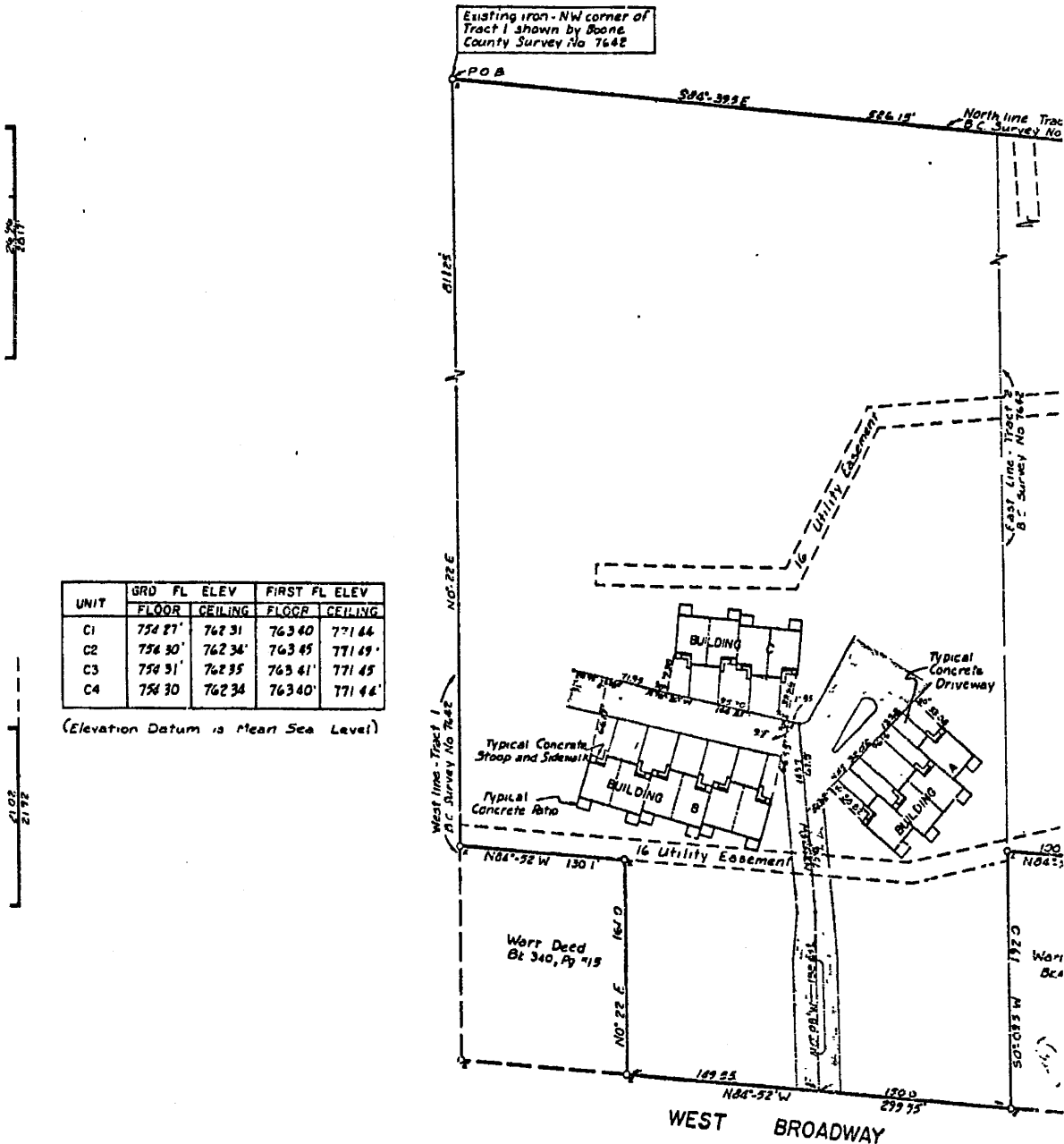


BUILDING C

# Boone County, Missouri

## Unofficial Document

### BROADWAY CONDOMINIUMS



# Boone County, Missouri

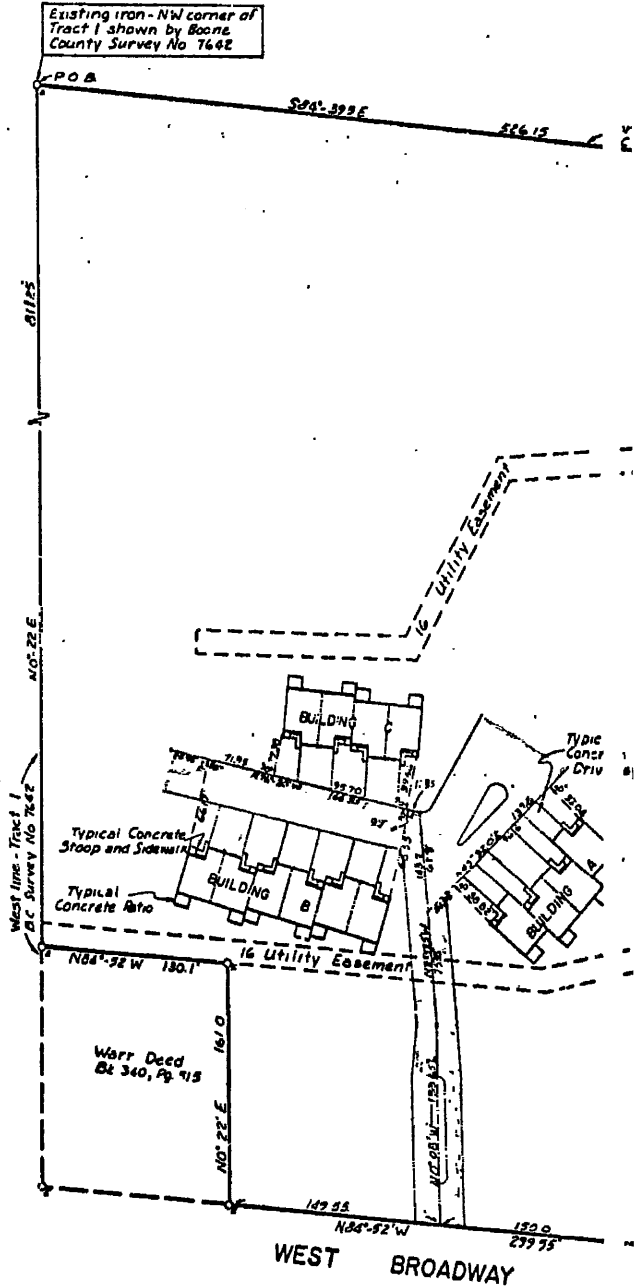
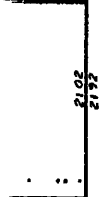
## Unofficial Document

### OFF BROADWAY CONDOMINIUMS



UNIT	GRD FL ELEV		FIRST FL ELEV	
	FLOOR	CEILING	FLOOR	CEILING
C1	754 27'	762 31'	763 40'	771 44'
C2	754 30'	762 34'	763 45'	771 49'
C3	754 31'	762 35'	763 41'	771 45'
C4	754 30'	762 34'	763 40'	771 44'

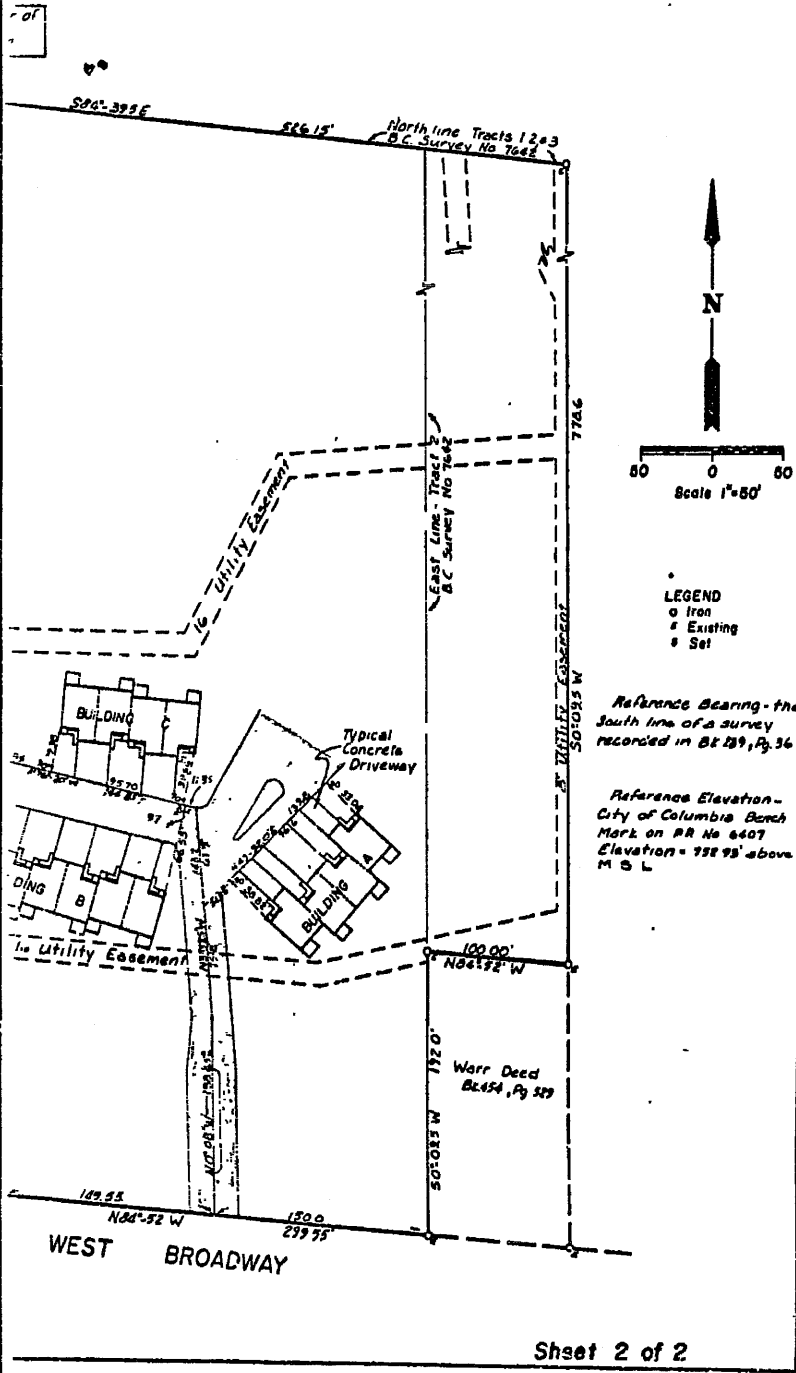
(Elevation Datum is Mean Sea Level)



# Boone County, Missouri

## Unofficial Document

1S

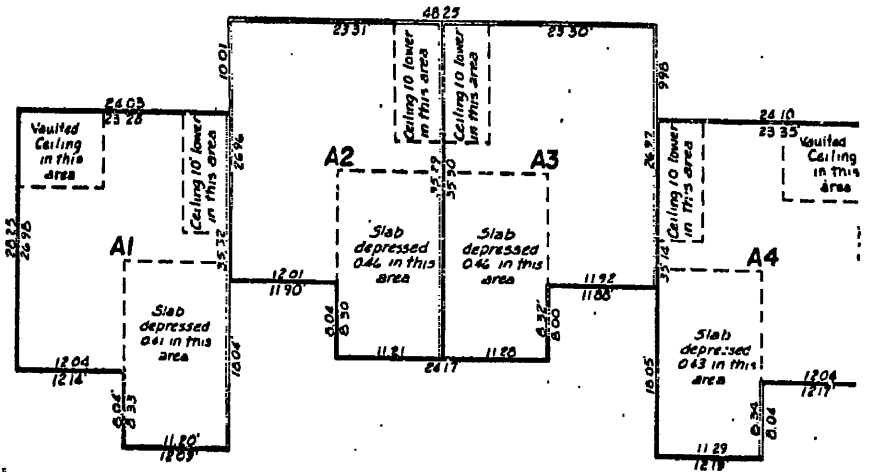


Sheet 2 of 2

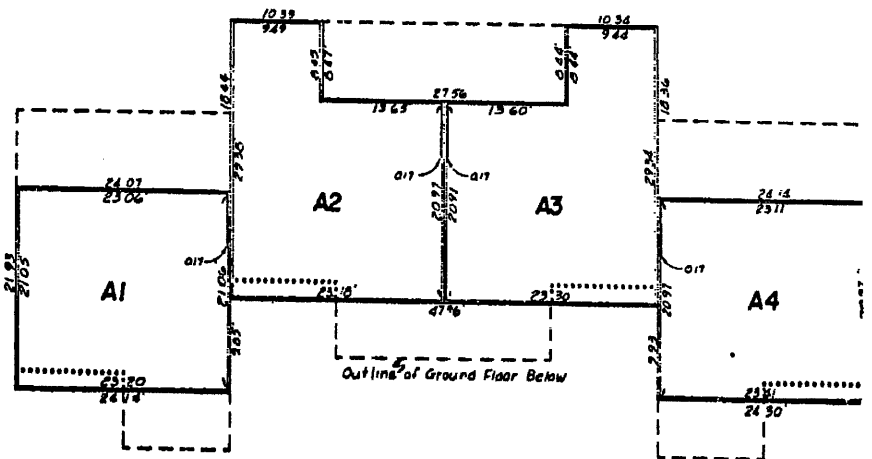


# Boone County, Missouri

## Unofficial Document

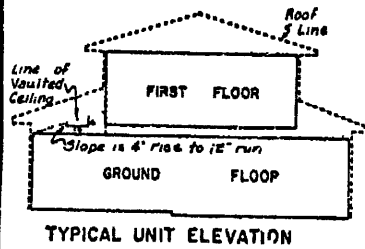


Ground Floor Plan



First Floor Plan

### BUILDING A



TYPICAL UNIT ELEVATION

UNIT	GRD FL ELEV		FIRST FL ELEV	
	FLOOR	CEILING	FLOOR	CEILING
A1	750 75'	758 19'	759 67'	767 71'
A2	753 19'	761 23'	762 12'	770 16'
A3	753 21'	761 25'	762 13'	770 17'
A4	755 64'	763 68'	764 60'	772 64'
B1	757 40'	765 44'	766 36'	774 42'
B2	757 41'	765 45'	766 40'	774 44'
B3	757 39'	765 43'	766 35'	774 39'
B4	757 40'	765 44'	766 36'	774 40'
B5	757 35'	765 39'	766 31'	774 41'
B6	757 36'	765 42'	766 40'	774 44'

(Elevation Datum is Mean Sea Level)

# Boone County, Missouri

## Unofficial Document

### OFF BROADWAY CONDOMINIUMS

#### DIAGRAMMETRIC PLANS

I certify that in February, 1981 I completed a condominium survey in Tracts 1 and 2 of Boone County Survey No. 76 EXCEPT the south 80 feet taken for right-of-way purposes and EXCEPT that portion conveyed by a warranty Dec recorded in Book 340, Page 315; AND the west 100.0 feet of Tract 3 of said survey as measured along the south line thereof, EXCEPT the south 200.0 feet as measured along the west line thereof; all being located in the SW¼ of Section 10, Township 48 North, Range 13 West, Columbia, Boone County, Missouri as shown by a survey recorded in Book 479, Page 884.

SURVEY AND PLAT BY ALLSTATE CONSULTANTS

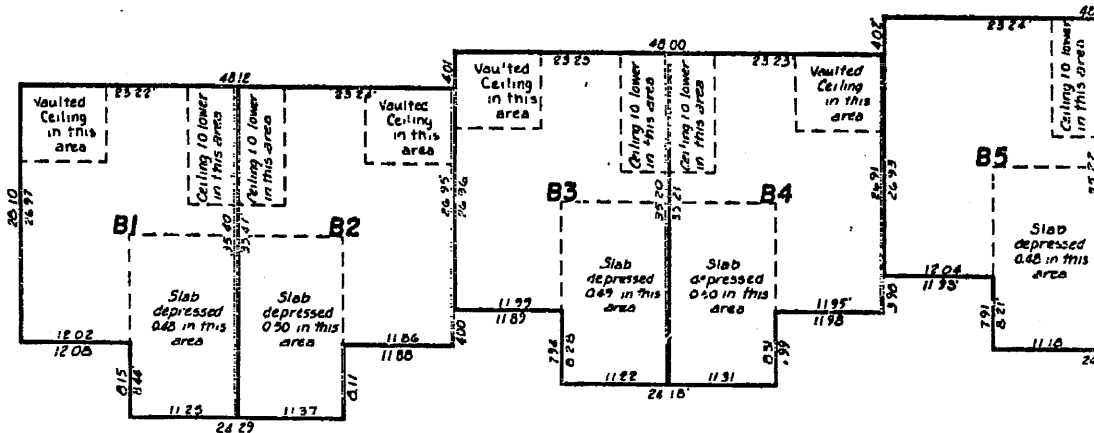
*Boone* LS 1509  
Ron C. Shy

Subscribed and sworn to before me this 18th day of

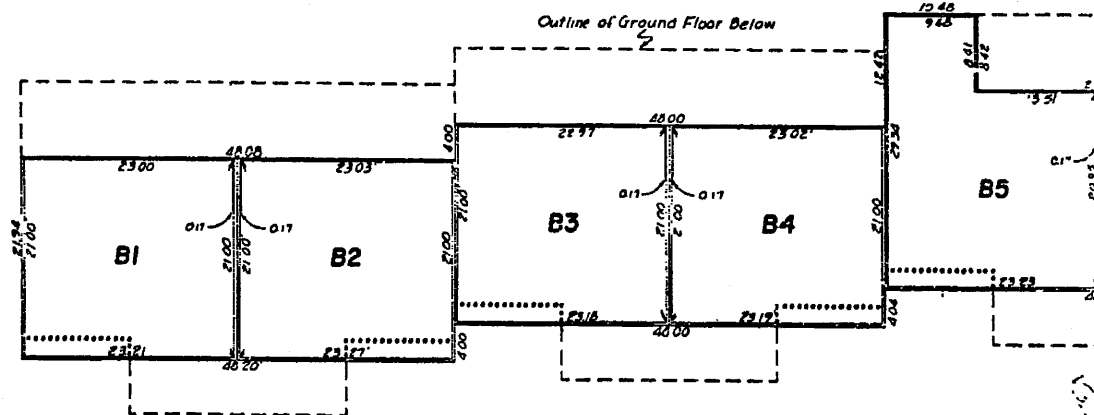
*Vicky M. Shy* Notary Public  
Vicky M. Shy

My term expires June 27, 1983

Note: All building corners are approximately 90° unless otherwise shown



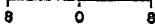
Ground Floor Plan



First Floor Plan

BUILDING B

Scale 1"=8'

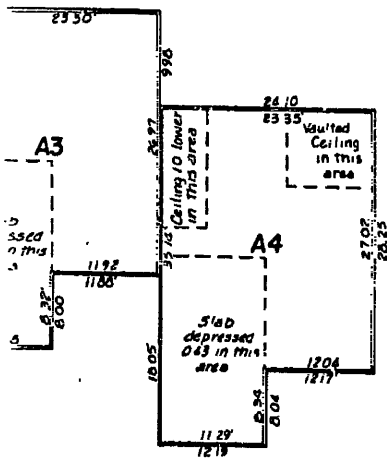


# Boone County, Missouri

## Unofficial Document

### OFF BROADWAY CON

### DIAGRAMMETRIC

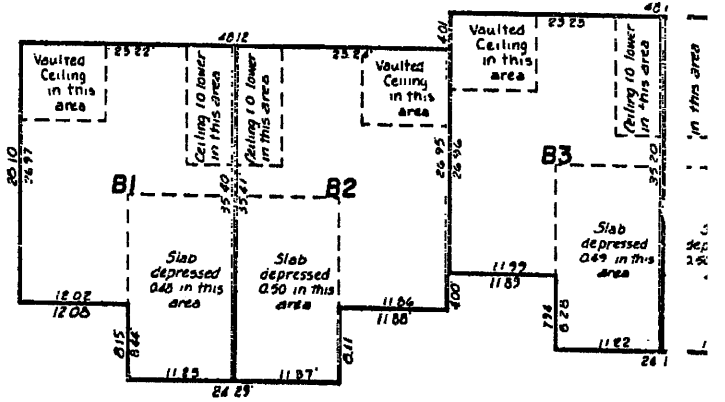
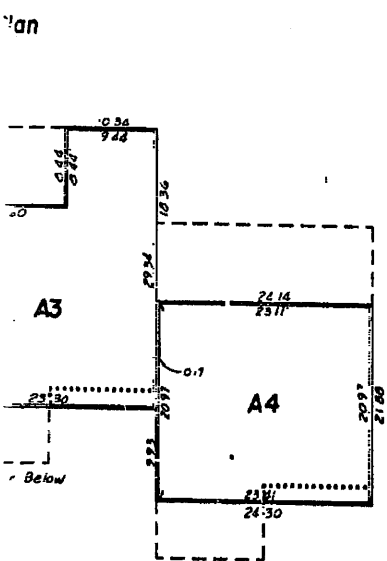


I certify that in February, 1981 I completed a condominium survey EXCEPT the south 80 feet taken for right-of-way purposes and recorded in Book 340, Page 515, AND the west 100 feet of Tract 3 of said survey as measured the south 200 feet as measured along the west line, there all being located in the SW 1/4 of Section 10, Township 48 North Missouri as shown by a survey recorded in Book 479, 1

SURVEY AND PLAT BY ALLSTATE CONSULTANTS

*Ron C. Shy* L.S. 1509

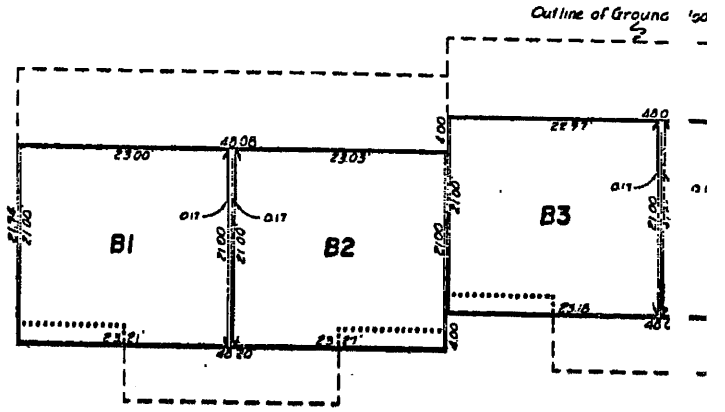
Note: All building corners are approximately 90° unless otherwise shown



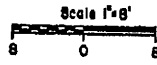
Ground Floor

GRD FL ELEV		FIRST FL ELEV	
FLOOR	CEILING	FLOOR	CEILING
750 75'	758 79'	759 47'	767 71'
753 19'	761 23'	762 12'	770 16'
753 21'	761 25'	762 13'	770 17'
755 64'	763 68'	764 60'	772 64'
757 40'	765 44'	766 38'	774 42'
757 41'	765 45'	766 40'	774 44'
757 39'	765 43'	766 35'	774 39'
757 40'	765 44'	766 36'	774 40'
757 35'	765 39'	766 31'	774 41'
757 38'	765 42'	766 40'	774 44'

Datum (e Mean Sea Level)



First Floor



BUILDING

# Boone County, Missouri

## Unofficial Document

### Y CONDOMINIUMS

### ASYMMETRIC PLANS

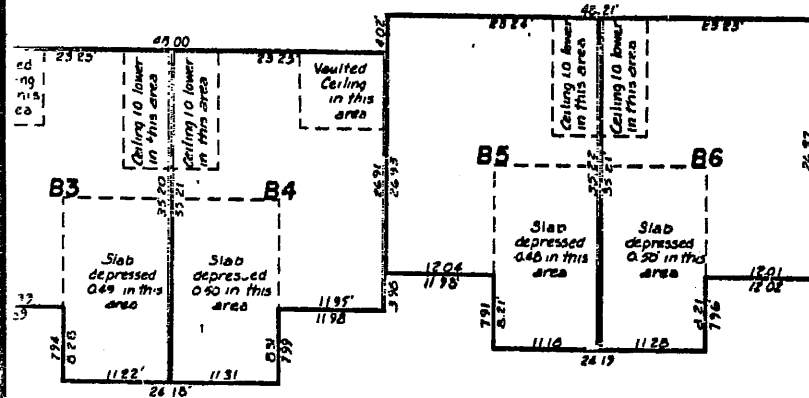
condominium survey in Tracts 1 and 2 of Boone County Survey No. 7642, for purposes and EXCEPT that portion conveyed by a Warranty Deed survey as measured along the south line thereof, EXCEPT the west line thereof, Township 48 North, Range 13 West, Columbia, Boone County, as in Book 479, Page 884.

NOTES

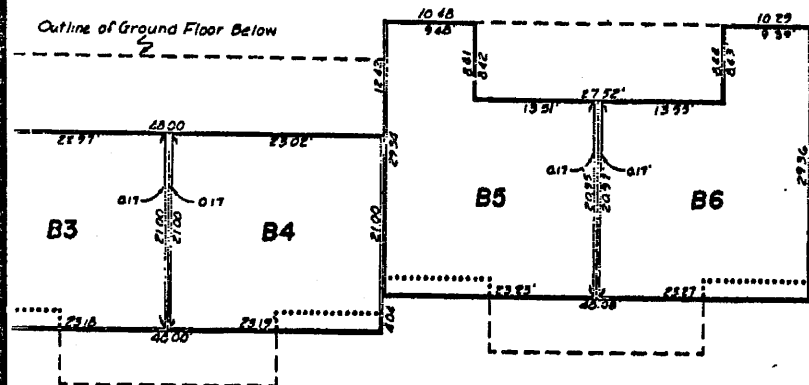
Subscribed and sworn to before me this 12<sup>th</sup> day of February, 1981

Vicky M Shy Notary Public

My term expires June 27, 1983



Ground Floor Plan



First Floor Plan

BUILDING B

Sheet 1 of 2

# Boone County, Missouri

## Unofficial Document

"EXHIBIT B"

SURVEYOR'S CERTIFICATE

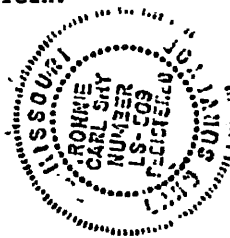
Unofficial Document

SURVEYOR'S CERTIFICATE

Attached to and made a part of "Exhibit A"  
to the Declaration of Condominium for Off Broadway  
Condominiums

The undersigned, a Surveyor, duly authorized to practice  
under the laws of the State of Missouri, hereby certifies that  
the construction of the improvements for Off Broadway Condominiums,  
described in "Exhibit A" and as specified in said Declaration are  
sufficiently complete so that these records together with the  
wording of the Declaration, correctly represent the improvements  
therein described, and there can be determined therefrom the  
identification, location, dimensions, and size of the condominium  
units, limited common elements and common elements therein.

Dated 2<sup>nd</sup> March, 1981.



*[Signature]*  
RON C. SHY  
Registered Land Surveyor  
Missouri Certificate 1509

STATE OF MISSOURI    ss  
COUNTY OF BOONE

Subscribed and sworn to before me this 2<sup>nd</sup> day of March 1981.

*[Signature]* Notary Public  
VICKY M. SHY

My term expires June 27, 1983.

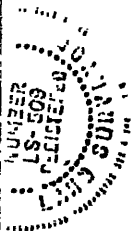
# Boone County, Missouri

## Unofficial Document

"EXHIBIT C"

PERCENTAGE OF UNDIVIDED INTEREST IN  
COMMON ELEMENTS AND UNIT OWNERS' SHARE OF  
COMMON EXPENSE OF THE CONDOMINIUM

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Nora Dietzel, Recorder of Deeds

# Boone County, Missouri

## Unofficial Document

"EXHIBIT C"

<u>Condominium Units</u>	<u>Percentage of Undivided Interests* in Common Elements and Unit Owner's Share of Common Expenses</u>
A1	7 143%
A2	7 143%
A3	7 143%
A4	7 143%
B1	7 143%
B2	7 143%
B3	7 143%
B4	7 143%
B5	7 143%
B6	7 143%
C1	7 143%
C2	7 143%
C3	7 143%
C4	7 143%

\*This table is based on Fourteen (14) Units, which are the only completed units as of the date of this Declaration. This ratio will be subject to modification (reduction) in the highly likely event the Developer adds additional units to the development.



Unofficial Document

ARTICLES OF INCORPORATION  
OF  
OFF BROADWAY CONDOMINIUM ASSOCIATION, INC.

No. N000254



A G:

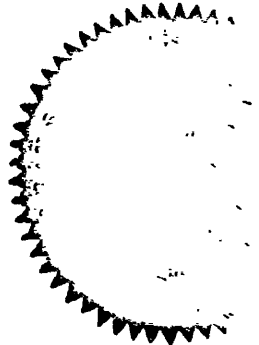
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# Boone County, Missouri

No. N00025447 Unofficial Document



**STATE of MISSOURI**

JAMES C. KIRKPATRICK, Secretary of State

CORPORATION DIVISION

## Certificate of Incorporation A General Not For Profit Corporation

WHEREAS, duplicate originals of Articles of Incorporation of \_\_\_\_\_  
OFF BROADWAY CONDOMINIUM ASSOCIATION, INC.

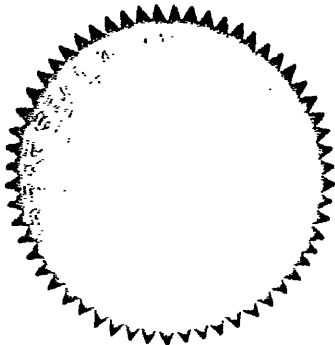
have been received and filed in the office of the Secretary of State, which Articles, in all respects, comply with the requirements of The General Not For Profit Corporation Law of Missouri:

NOW, THEREFORE, I, JAMES C. KIRKPATRICK, Secretary of State of the State of Missouri, by virtue of the authority vested in me, do hereby certify and declare \_\_\_\_\_  
OFF BROADWAY CONDOMINIUM ASSOCIATION, INC.

a body corporate, duly organized this day; that it is entitled to all rights and privileges granted corporations organized under The General Not For Profit Corporation Law of Missouri; that the address of its initial Registered Office in Missouri is \_\_\_\_\_  
1107 East Ash St., Columbia 65201

and that its period of existence is \_\_\_\_\_ perpetual

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the GREAT SEAL of the State of Missouri, at the City of Jefferson, this 9th day of February, 1981.



*James Kirkpatrick*  
Secretary of State

RECEIVED OF: \_\_\_\_\_ OFF BROADWAY CONDOMINIUM ASSOCIATION, INC.

Ten and no/00----- Dollars, \$ 10.00

For Credit of General Revenue Fund, on Account of Incorporation Tax and Fee.

No. N00025447

*James Kirkpatrick*  
Secretary of State

# Boone County, Missouri

## Unofficial Document

ARTICLES OF INCORPORATION  
OF  
OFF BROADWAY CONDOMINIUM ASSOCIATION, INC.

The undersigned, by these Articles, associate themselves for the purpose of forming a corporation not-for-profit under Chapter 355 of the Missouri Statutes, and certify as follows.

### ARTICLE I

#### Name and Address

The name of the corporation shall be "Off Broadway Condominium Association, Inc." For convenience, the corporation shall be referred to in this instrument as the "Association." The business address of the Association shall be 1107 East Ash Street, Columbia, Missouri, 65201. Its initial registered agent at such address shall be John F. Haskins.

### ARTICLE II

#### Purpose

A. The purpose for which the Association is organized is to provide an entity pursuant to the Condominium Act of the State of Missouri which is Chapter 448 Revised Statutes of Missouri, and specifically Sections 448.170, 448.180, 448.190, 448.195, and 448.200 of that Chapter, for the operation of "Off Broadway Condominiums" which is located in Boone County, Missouri.

B. For the purpose of Chapter 448 of the Revised Statutes of Missouri, the Association shall constitute the legal entity whereby unit owners in said condominium development shall govern and administer the affairs pertaining to same.

C. The Association shall make no distribution of income inconsistent with these Articles.

### ARTICLE III

#### Powers

The powers of the Association shall include and be governed by the following provisions:

A. The Association shall have all of the common law and statutory powers of a Missouri corporation which is not-for-profit and which are not in conflict with the terms of these Articles.

B. The Association shall have all the powers and duties set forth in Chapter 355 of the Missouri Statutes. The Association shall also have all of the powers set forth in the Condominium Act of the State of Missouri, Chapter 448, Revised Statutes of Missouri, and all powers granted to it by the Declaration of Condominium and Exhibits annexed thereto of Off Broadway Condominiums, which exhibits include the By-laws of the Association; except that all of the powers hereby granted shall be limited as is specifically provided in said statutes, declaration, and By-laws.

C. All funds of and title to all properties acquired by the Association and their proceeds shall be held in trust for the members in accordance with the provisions of the Declaration of Condominium of Off Broadway Condominiums, these Articles of Incorporation and the By-laws.

D. The Association is also formed for the following purposes:

# Boone County, Missouri

## Unofficial Document

1. To act as a condominium owners' association for unit owners in that development known or to be known as "Off Broadway Condominiums" in Boone County, Missouri.

2. To enforce those covenants, restrictions, and requirements as to the use and occupancy, and to assess, provide for, and collect those assessments, and to discharge those duties, functions, services and responsibilities all as provided for by the Declaration of Condominium which relates to the Off Broadway Condominium Development in Boone County, Missouri.

3. To provide for all of the maintenance services, repair services, and other services imposed upon the "Board of Managers" pursuant to the Missouri Condominium Property Act, Chapter 448 of the Revised Statutes of Missouri, as well as those imposed upon the Association pursuant to the Declaration of Condominium of the Off Broadway Condominium Development.

4. To establish rules and regulations for the government and administration of the Off Broadway Condominium Development.

5. In no event shall this Association conduct or carry on an active business for profit, or in any manner engage in lobbying or political activities of any kind or nature whatsoever; nor shall the Association support political activities of any kind or nature whatsoever.

### ARTICLE IV

#### Members

A. The members of the Association shall consist of all of the record owners of units, and in the event of the termination of the condominium, shall consist of those who are members at the time of such termination, and their successors and assigns.

B. After receiving approval of the Association required by the Declaration of Condominium, change of membership in the Association shall be established by recording in the public records of Boone County, Missouri, a deed or other instrument to establish 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 thus becomes a member of the Association and the membership of the prior owner is terminated.

C. 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.

D. The owner of each unit shall be entitled to at least one (1) vote as a member of the Association. The exact number of votes to be cast by owners of a unit and the manner of exercising voting rights shall be determined by the By-laws of the Association, and by the Condominium Declaration.

### ARTICLE V

#### Perpetual Existence

The Association shall have perpetual existence.

### ARTICLE VI

#### Directors

A. The affairs of the Association will be managed by a board consisting of the number of directors determined by the By-laws but not less than five (5) directors, and in the absence of such determination, shall consist of five (5) directors. A majority of the directors must authorize all actions of the Association.

B. All Revised Statute shall be consistent. The Directors designate an development w

C. Dire of the members and vacancies by the By-law

D. The Developer of t of all of the condominium, c named in these the first elec before the ele ever, in any e (5) or more w majority of th of the Associ of at least or the right to d of the Board o to relinquish Whenever Devel to serve or an have the right save on said another person so removed, fo so removed.

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# Boone County, Missouri

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... shall be considered as referring to the Board of Directors of the Association. The Directors of the Association shall be empowered to select a manager or to designate an officer of the Association to serve as "manager" of the condominium development within the meaning of Chapter 448 of the Revised Statutes of Missouri.

C. Directors of the Association shall be elected at the annual meeting of the members in the manner determined by the By-laws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the By-laws.

D. The first election of directors shall not be held until after the Developer of the condominium, or its successors or assigns, has closed the sales of all of the units in the condominium or elects to terminate control of the condominium, or until December 31, 1985, whichever occurs first. The directors named in these Articles of Incorporation of the Association shall serve until the first election of directors, and any vacancies in their number occurring before the election shall be filled by the remaining directors. Provided, however, in any election of directors, so long as Developer is the owner of five (5) or more units, Developer shall have the right to designate and select a majority of the persons who shall serve as members of each Board of Directors of the Association, and provided further, that so long as Developer is the owner of at least one (1), but not more than five (5) units, Developer shall have the right to designate and select one of the persons who shall serve as a member of the Board of Directors of the Association. Developer reserves the right to relinquish control over the membership of the Board of Directors at any time. Whenever Developer shall be entitled to designate and select any person or persons to serve on any Board of Directors of the Association, Developer shall also have the right to remove any such person or persons selected by it to act and serve on said Board of Directors and to replace such person or persons with another person or persons to act and serve in a place of any director or director so removed, for the remainder of the unexpired term of any director or directors so removed.

A director designated and selected by Developer need not be a resident in the condominium.

E. The names and addresses of the members of the first Board of Directors who shall hold office until their successors are elected and qualified, or, until removed, are as follows:

John F. Haskins  
315 Arbor Drive  
Columbia, MO 65201

Irene Haskins  
315 Arbor Drive  
Columbia, MO 65201

Carl E. Burpo, Jr.  
Route 4  
Columbia, MO 65201

Susan M. Burpo  
Route 4  
Columbia, MO 65201

Lester Carter, Jr.  
1301 Overhill Court  
Columbia, MO 65201

# Boone County, Missouri

## Unofficial Document

### ARTICLE VII

#### Officers

The affairs of the Association shall be administered by the officers designated in the By-laws. The officers shall be elected by the Board of Directors at its first meeting following the annual meeting of the members of the Association and shall serve at the pleasure of the Board of Directors. The names and addresses of the officers who shall serve until their successors are designated by the Board of Directors are as follows:

John F. Haskins  
315 Arbor Drive  
Columbia, MO 65201

Irene Haskins  
315 Arbor Drive  
Columbia, MO 65201

Carl E. Burpo, Jr.  
Route 4  
Columbia, MO 65201

### ARTICLE VIII

#### Indemnification

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

### ARTICLE IX

#### By-Laws

The first By-Laws of the Association shall be adopted by the Board of Directors and may be altered, amended, or rescinded in the manner provided by the By-Laws. Provided, however, that prior to the time that the Declaration of Condominium of Off Broadway Condominiums is filed for public record, said first Board of Directors shall have full power to amend, alter or rescind said By-Laws by a majority vote.

### ARTICLE X,

#### Amendments

Amendments to the Articles of Incorporation shall be composed and adopted in the following manner:

A. 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.

Unofficial Document

B. A resolution for the adoption of a proposed amendment may be proposed either by the Board of Directors or by the members of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, providing such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided:

1. Such approvals must be by not less than sixty-six and two-thirds percent (66 2/3%) of the entire membership of the Board of Directors and not less than seventy-five percent (75%) of the votes of the entire membership of the Association; or
2. If the proposed change to the Articles of Incorporation has received unanimous approval of the Board of Directors, then it shall require only a majority vote of the membership to be adopted; or
3. By not less than eighty percent (80%) of the votes of the entire membership of the Association.

C. Provided, however, that no amendment shall make any changes in the qualification for membership nor the voting rights of members, nor any changes in Section C of Article VI without approval in writing of all members and the joinder of the Developer or its successors or assigns. No amendment shall be made that is in conflict with the Condominium Property Act of the State of Missouri or the Declaration of Condominium of Off Broadway Condominium.

ARTICLE XI

Incorporators

The names and address of the incorporators of these Articles of Incorporation are as follows.

John F. Haskins 315 Arbor Drive Columbia, MO 65201	Irene Haskins 315 Arbor Drive Columbia, MO 65201
--	--

Carl E. Burpo, Jr.  
Route 4  
Columbia, MO 65201

IN WITNESS WHEREOF, the incorporators have hereunto affixed their signatures this 11th day of February, 1981.

FILED AND CERTIFICATE OF INCORPORATION ISSUED

FEB 09 1981

*John F. Haskins*  
John F. Haskins

*Carl E. Burpo, Jr.*  
Carl E. Burpo, Jr.

*Irene Haskins*  
Irene Haskins

Notary Public  
STATE OF MISSOURI  
COUNTY OF BOONE

I, Suzanne M. Wicjaczka, a Notary Public, do hereby certify that on the 11th day of February, 1981, personally appeared before me John F. Haskins, Carl E. Burpo, Jr., and Irene Haskins, who being by me first duly sworn, severally declared that they are the persons who signed the foregoing document as incorporators and that the statements therein contained are true to the best of their knowledge

*Suzanne M. Wicjaczka*  
NOTARY PUBLIC

My commission expires September 22, 1984.

A. These are "Association," in the State of Missouri of the Secretary of Missouri have been organized for the 448 Revised Statutes which condominium in Boone County, Missouri

B. The office or at such other place Association.

C. The seal of and the word "Missouri" of incorporation, an

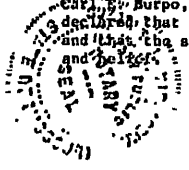
D. All words as attributed to the are attached.

A. Membership condominium units in either voluntarily or Association, and said

B. Any application where the approval of By-Laws and the Declaration fee. Said fees in order to cover the and such other costs

Meeting of

A. The annual meeting at 10.00 a.m. each year for the purpose authorized to be transacted on a legal holiday, the day is not a legal holiday.



FILED AND CERTIFICATE OF INCORPORATION ISSUED  
FEB 09 1981  
Suzanne M. Wicjaczka  
Notary Public, State of Missouri

# Boone County, Missouri

"EXHIBIT A"

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### BY-LAWS

OF

OFF BROADWAY CONDOMINIUM ASSOCIATION, INC.

### BY-LAWS

OF

OFF BROADWAY CONDOMINIUM ASSOCIATION, INC.  
A Corporation Not For Profit Under  
The Laws of the State of Missouri

#### ARTICLE I.

##### Identity

A. These are the By-Laws of Off Broadway Condominium Association, Inc. called "Association," in these By-Laws, a corporation not for profit under the laws of the State of Missouri. The Articles of Incorporation were filed in the office of the Secretary of State on February 9, 1981. The Association has been organized for the purpose of administering a condominium pursuant to Chapter 448 Revised Statutes of Missouri, called the "Condominium Act" in these By-Laws, which condominium will be known as "Off Broadway Condominium" and will be located in Boone County, Missouri.

B. The office of the Association shall be at the condominium property, or at such other place as may be designated by the Board of Directors of the Association.

C. The seal of the corporation shall bear the name of the corporation, and the word "Missouri" and the words "corporation not for profit" and the year of incorporation, an impression of which is as follows:

D. All words and phrases, as used herein, shall have the same definitions as attributed to them in the Declaration of Condominium to which these By-Laws are attached.

#### ARTICLE II.

##### Membership

A. Membership in this Association shall be limited to the owners of the condominium units in the above mentioned condominium. Transfer of unit ownership, either voluntarily or by operation of law, shall terminate membership in the Association, and said membership shall be vested in the transferee.

B. Any application for the conveyance of or lease of a condominium parcel where the approval of the Board of Directors is required as set forth in these By-Laws and the Declaration of Condominium, shall be accompanied by an application fee. Said fee shall be set by the Board of Directors of the Association in order to cover the cost of contacting the references given by the applicant, and such other costs of investigation that may be incurred.

#### ARTICLE III.

##### Meeting of Members of Association and Voting Provisions

A. The annual members' meeting shall be held at the office of the corporation at 10:00 a.m. Central Standard Time, on the 1st Saturday of October of each year for the purpose of electing directors and 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 on the next day that is not a legal holiday, and provided that the Board of Directors may in their



# Boone County, Missouri

## Unofficial Document

discretion choose another date, time and place for the annual meeting so long as the date is set within the month of October, and proper notice is given as herein after specified.

B. Special membership meetings shall be held whenever called by the President or Vice President or by a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from members entitled to cast one-quarter (1/4) of the votes of the entire membership.

C. Notice of membership 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 fifteen (15) days nor more than forty-five (45) days prior to the date of the meeting. Proof of such mailing shall be given by the affidavit of the person giving the notice. Notice of meeting may be waived before or after meetings.

D. A quorum at membership meetings shall consist of persons entitled to cast a majority of the votes of the entire membership. The acts approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the members, except when approval by a greater number of members is required by the Declaration of Condominium, the Articles of Incorporation or these By-Laws. The joinder of a member in the action of a meeting by signing or concurring in the minutes thereof shall constitute the presence of such member for the purpose of determining a quorum.

### E. Voting.

1. In any meeting of members, the owners of units shall be entitled to cast one (1) vote for each unit.

2. If a unit is owned by one person, his right to vote shall be established by the record title to his unit. If a unit is owned by more than one person or is under lease, the person entitled to cast the vote for the unit shall be designated by a certificate signed by all of the record owners of the unit and filed with the Secretary of the Association. If a unit is owned by a corporation, the person entitled to cast the vote for the unit shall be designated by a certificate signed by the president or vice president and attested by the secretary or assistant secretary of the corporation and filed with the Secretary of the Association. Such certificate shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the unit concerned. A certificate designating the person entitled to cast the vote of a unit may be revoked by any owner of a unit. If such a certificate is not on file with the Secretary of the Association for a unit owned by more than one person or by a corporation, the vote of the unit concerned shall not be considered in determining the requirement for a quorum, or for any purpose requiring the approval of a person entitled to cast the vote for the unit, except if said unit is owned by a husband and wife. If a condominium unit is jointly owned by a husband and wife, the following three provisions are applicable thereto:

a. They may, but they shall not be required to, designate a voting member.

b. If they do not designate a voting member, and if both are present at a meeting and are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to vote on that subject at that meeting. (As previously provided, the vote of a unit is not divisible.)

c. Where they do not designate a voting member, and only one is present at a meeting, the person present may cast the unit vote, just as though he or she owned the unit individually and without establishing the concurrence of the absent person.

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

G. 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.

H. Order of business at annual members' meetings and as far as practical at other members' meeting shall be:

- 1. Election of chairman of the meeting.
2. Calling of the roll and certifying of proxies.
3. Proof of notice of meeting or waiver of notice.
4. Reading and disposal of any unapproved minutes.
5. Reports of officers.
6. Reports of committees.
7. Election of inspectors of election.
8. Election of directors.
9. Unfinished business.
10. New business.
11. Adjournment.

I. Proviso. Provided, however, that until the Developer has completed all of the contemplated improvements and closed the sales of all of the units of the condominium or until the Developer elects to terminate its control of the condominium, or until December 31, 1985 whichever first occurs, the proceedings of all meetings of members of the Association shall have no effect unless approved by the Board of Directors.

ARTICLE IV.

Directors

A. Membership. The affairs of the Association shall be managed by a Board of Directors of not less than three (3) nor more than nine (9) Directors, the exact number to be determined at the time of election; provided, however, that until the time provided for in paragraph I above, the Developer shall determine the number of Directors (not to be less than five) and shall appoint them.

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

1. The first election of Directors shall be as provided for in the Articles of Incorporation.

2. Elections of Directors shall be held at the annual members' meeting.

3. A nominating committee of three (3) members shall be appointed by the Board of Directors not less than thirty (30) days prior to the annual members' meeting. The committee shall nominate one (1) person for each Director then serving, except as to directorships to be filled by appointment of Developer. Nominations for additional directorships, if created at the meeting, shall be made from the floor. Nominations, in addition to the committee nominations, may be made from the floor.

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## Unofficial Document

4. The election shall be by ballot (unless dispensed with by unanimous consent) and by a plurality of the votes cast, each person voting being entitled to cast his votes for each of as many nominees as there are vacancies to be filled. There shall be cumulative voting as prescribed by §355.120 RSMo.

5. 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, who shall select the person to fill the vacant seat(s).

6. Any Director may be removed by concurrence of two-thirds (2/3) of the votes of the entire membership at a special meeting of the members called for that purpose. The vacancy in the Board of Directors so created shall be filled by the members of the Association at the same meeting.

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

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

E. 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 date named for such meeting by the Secretary of the Association.

F. Special meetings of the Directors may be called by the President and must be called by the Secretary at the written request of one-half (1/2) of the Directors. Not less than three (3) days' notice of the meeting shall be given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting.

G. 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. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him of the time and place of the meeting.

H. A quorum at Directors' meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the Declaration of Condominium, the Articles of Incorporation or these By-Laws.

I. Adjourned Meetings. If at any meeting of the Board of Directors there be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business that might have been transacted at the meeting as originally called may be transacted without further notice.

J. Joinder in meeting by approval of minutes. The joinder of a Director in the action of a meeting by signing and concurring in the minutes of that meeting shall constitute the presence of such Director for the purpose of determining a quorum.

K. The presiding officer of Directors' meetings shall be the chairman of the Board if such an officer has been elected; and if none, the President shall preside. In the absence of the presiding officer, the Directors present shall designate one of their number to preside.

L. Disqualification and Resignation of Directors. Any Director may resign at any time by sending a written notice of such resignation to the office of the Corporation, delivered to the Secretary. Unless otherwise specified therein, such resignation shall take effect upon receipt thereof by the Secretary.

# Boone County, Missouri

## Unofficial Document

Commencing with the organizational meeting of a newly elected Board of Directors following the first annual meeting of the members of the Association, more than three (3) consecutive absences from regular meetings of the Board of Directors, unless excluded by resolution of the Board of Directors, shall automatically constitute a resignation effective when such resignation is accepted by the Board of Directors.

Commencing with the Directors elected at such first annual meeting of the membership, the transfer of title of his unit by a Director shall automatically constitute a resignation, effective when such resignation is accepted by the Board of Directors. No member shall continue to serve on the Board should he be more than thirty (30) days delinquent in the payment of an assessment, and said delinquency shall automatically constitute a resignation, effective when such resignation is accepted by the Board of Directors.

M. The order of business at Directors' meetings shall be:

1. Calling of roll.
2. Proof of due notice of meeting.
3. Reading and disposal of any unapproved minutes.
4. Reports of officers and committees.
5. Election of officers.
6. Unfinished business.
7. New business.
8. Adjournment.

N. Proviso. Provided, however, that until the Developer of the Condominium has completed all of the contemplated improvements and closed the sales of all of the Condominium units, or until December 31, 1985, or until Developer elects to terminate its control of the Condominium, whichever shall first occur, the first Directors of the Association shall serve, and in the event of vacancies the remaining Directors shall fill the vacancies, and if there are no remaining Directors the vacancies shall be filled by the Developer.

### ARTICLE V.

#### Powers and Duties of the Board of Directors

The Board of Directors shall have powers and duties necessary for the administration of the Association, and may do all such acts and things as are directed to be exercised and done by the unit owners. These powers shall specifically include but shall not be limited to the following:

A. To exercise all powers specifically set forth in the Declaration of Condominium, in these By-Laws, and the Condominium Act, and all powers incidental thereto.

B. To make assessments, collect assessments, and use and expend the assessments to carry out the purposes and powers of the Association, subject to the provisions of the management agreement attached to the Declaration of Condominium to which these By-Laws are attached.

C. To employ, dismiss and control the personnel necessary for the maintenance and operation of the project, and of the common areas and facilities, including the right and power to employ attorneys, accountants, contractors and other professionals, as the need arises.

## Unofficial Document

D. To make and amend regulations respecting the regulations and use of the common elements and Condominium property and facilities, and the use and maintenance of the Condominium units therein, and the pool and facilities area, subject to the applicable provisions of the Declaration of Condominium.

E. To contract for the management of the condominium and to delegate to such contractor all of the powers and duties of the Association except those which may be required by the Declaration of Condominium to have the approval of the Board of Directors or membership of the Association. To contract for the management and operation of portions of the common elements or facilities susceptible to separate management or operation thereof and to lease or concession such portions subject to the provisions of the Declaration of Condominium.

F. To further improve the Condominium property and the pool and facilities. The improvements may extend to real as well as personal property and include the right to purchase realty and items of furniture, furnishings, fixtures, and equipment for the foregoing and the right to acquire and enter into agreements pursuant to §448.010 R.S.Mo., et seq, as amended, subject to the provisions of the Declaration of Condominium and the Articles of Incorporation, and the By-Laws of this Association. The Board of Directors, through its officers, is authorized to enter into an Agreement or execute such documents as are provided for in the Declaration of Condominium.

G. To designate one or more committees which, to the extent provided in the resolution designating said committee, shall have the powers of the Board of Directors in the management of the business and affairs of the Association. Such committee shall consist of at least three (3) members of the Association, one of whom shall be a director. The committee or committees shall have such name or names as may be determined from time to time by the Board of Directors, and said committee(s) shall keep regular minutes of their proceedings and report the same to the Board of Directors, as required. The foregoing powers shall be exercised by the Board of Directors or its contractor or employees, subject only to approval by unit owners when such is specifically required.

### ARTICLE VI

#### Officers

A. 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 preemptorily removed by a majority vote of the Directors at any meeting. Any person may hold two or more offices except that the president shall not also be the secretary or an assistant secretary. The Board of Directors from time to time may appoint assistant secretaries and assistant treasurers, and such other officers as the Board deems necessary and may designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

B. The President shall be the chief executive officer of the Association. He shall have all of the powers and duties usually vested in the office of president of an association. He shall sign all written contracts and perform all of the duties incident to his office and which may be delegated to him from time to time by the Board of Directors.

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

D. The Secretary shall keep the minutes of all proceedings of the Directors and the members. He shall attend to the giving and serving of all notices to the members and Directors and other notices required by law. He shall have custody of the seal of the Association and affix it to instruments requiring a seal when duly signed. He shall perform all other duties incident to the office of the secretary of an association and as may be required by the Directors.

# Boone County, Missouri

## Unofficial Document

or the President. The Assistant Secretary shall perform the duties of the Secretary when the Secretary is absent.

E. The Treasurer shall have custody of all properties of the Association and he shall perform all of the duties incident to the office of treasurer to include, but not be limited to, the following:

1. He shall have custody of the Association's funds and securities and shall keep complete and accurate accounts of receipts and disbursements in books belonging to the Association, and shall deposit all monies and other valuable effects in the name of and to the credit of the Association, in such depositories as may be designated from time to time by the Board of Directors of the Association. The books shall reflect an account for each unit in the manner required by the Condominium Act.

2. He shall disburse the funds of the Association as may be ordered by the Board of Directors in accordance with these By-laws, making proper vouchers for such disbursements, and shall render to the President and Board of Directors, at the regular meetings of the Board of Directors, or whenever they may require, an account of his transactions as treasurer and of the financial conditions of the Association.

3. He shall collect the assessments and shall promptly report the status of collections and all delinquencies of the Board of Directors.

4. He shall give status reports to potential transferees, on which reports the transferees may rely.

5. The Assistant Treasurer shall perform the duties of the Treasurer when the Treasurer is absent.

6. In the event professional management of the condominium project has been arranged for by the directors, the Treasurer (or assistant treasurer) may delegate the above responsibilities to said management firm; provided, however, that the responsibilities for the accuracy of all financial reports and disbursements shall remain the Treasurers.

F. The compensation of all officers and employees of the Association shall be fixed by the Directors. The provision that Directors' fees shall be determined by member 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.

### ARTICLE VII

#### Fiscal Management

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

A. Accounts. The receipt and expenditures of the Association shall be credited and charged to accounts under the following classifications as shall be appropriate, all of which expenditures shall become expenses:

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

2. Reserve for deferred maintenance shall include funds for maintenance items that occur less frequently than annually. Reserves for replacement shall include funds for repair replacement required because of damage, depreciation or obsolescence.

3. Betterments shall include the funds to be used for capital expenditures for additional improvements or additional personal property that will be part of the Common Elements.

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

Unofficial Document

1. Current expenses, the amount for which shall not exceed one hundred twenty-five percent (125%) of the budget for this account for the prior year.

2. Reserve for deferred maintenance, the amount for which shall not exceed one hundred twenty-five percent (125%) of the budget for this account for the prior year.

3. Reserve for replacement, the amount for which shall not exceed one hundred twenty-five percent (125%) of the budget for this account for the prior year.

4. Betterments, which shall not include the funds to be used for capital expenditures for additional improvements or additional personal property that will be part of the Common Elements, the amount for which shall not exceed one-twelfth (1/12) of the budget for the prior year expended for a single item or purpose without approval of the members of the Association.

5. Provided, however, that the amount for each budgeted item may be increased over the foregoing limitations when approved by unit owners entitled to cast no less than the majority of the votes of the entire membership of the Association; and provided further, however, that until December 31, 1985, or until Developer has completed all of the improvements contemplated by the Declaration of Condominium and closed the sales of all units, or until the Developer elects to terminate its control of the Condominium, whichever shall occur first, the Board of Directors may omit from the budget all allowances for contingencies in reserves.

6. Copies of the budget and proposed assessments shall be transmitted at least fifteen (15) days prior to the first day of the fiscal year. If the budget is amended subsequently, copy of the amended budget shall be furnished to each member.

C. Assessments. Assessments against the unit owners for their share of the items of the budget shall be made for the calendar year or fiscal year, as the case may be, annually, in advance, on or before ten (10) days preceding the year for which the assessments are made. Assessments shall be payable in equal monthly installments in advance on the first day of each month, provided, however, that each unit owner shall, upon taking title, pay at closing the prorata monthly assessment for the month in which closing takes place, together with the assessment for the next succeeding month, in order to provide sufficient working capital to the Association. The Board of Directors of the Association shall have the option of imposing an alternative form of installment payment, to-wit: payment of assessments on a quarterly basis as opposed to a monthly basis. Upon institution of collection in quarterly installments, the assessment shall be payable in advance in four equal quarterly installments on the first day of January, April, July and October of the year for which the assessments are made. The unit owner shall be given thirty (30) days advance notice of any change in the interval of installment payments. In the event the annual installments prove to be insufficient, the budget and assessments may be amended at any time by the Board of Directors if the accounts of the amended budget do not exceed the limitations for that year. Any account that does exceed such limitations shall be subject to the approval of the membership of the Association as previously required by these By-laws. The unpaid assessment for the remaining portion of the calendar or fiscal year for which the amended assessment is made shall be payable in quarterly installments divided among the number of installments remaining due under that year.

D. Acceleration of Assessment Installments Upon Default. If a unit owner shall be in default in the payment of an installment upon an assessment, the Board of Directors may accelerate the remaining installments of the assessment upon notice to the unit owner, and then the unpaid balance of the assessment

shall become due upon delivery of the notice ten (10) days after the mailing of the notice, whichever shall first occur, and the same shall be charged at the time of delivery.

E. Assessments. Assessments against unit owners for contingencies that cannot be made until the next fiscal year shall be made only if the Board of Directors is concerned. After the Board of Directors has cast more than one-half of the votes of the entire membership of the Association, the assessment shall be made ten (10) days after the mailing of the notice, whichever shall first occur, and the same shall be charged at the time of delivery.

F. The deposits designated from the Association shall be made only by checks or money orders payable to the Association.

G. An audit by a certified public accountant shall be conducted by the Board of Directors to each member not less than once a year, and an audit is made.

H. Fidelity. The persons handling or depositing the Association's funds shall be determined by the Association and shall be determined by the Association and shall be determined by the Association and shall be determined by the Association.

Roberts Rules of Order shall govern the meetings of the Association.

These By-laws

A. Notice of meetings shall be given in accordance with the provisions of these By-laws.

B. A resolution of the Board of Directors shall be adopted by a majority of the votes of the entire membership of the Association, and the same shall be delivered to the unit owner in accordance with the provisions of these By-laws.

1. Not less than ten (10) days before the meeting.

2. By the unit owner in accordance with the provisions of these By-laws.

3. Until the meeting.

C. Proviso. The assessment shall be made against any unit owner in accordance with the provisions of these By-laws.

# Unofficial Document

shall become due upon the date in the notice, but not less than ten (10) days after delivery of the notice 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. Interest on such accelerated assessments shall be charged at the rate provided for in the Declaration of Condominium.

E. Assessment for Emergencies. Assessments for common expenses of emergencies that cannot be paid from the annual assessment for common expenses shall be made only after notice of a need for such is given to the unit owners concerned. After such notice and upon approval in writing by persons entitled to cast more than one-half (1/2) of the votes of the unit owners concerned, the assessment shall become effective, and it shall be due after thirty (30) days notice in such manner as the Board of Directors of the Association may require in the notice of the assessment.

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

G. An audit of the accounts of the association shall be made annually by a certified public accountant or such other person as shall be designated by the Board of Directors and a copy of the audit report shall be furnished to each member not later than four (4) months following the year for which the audit is made.

H. Fidelity bonds may be required by the Board of Directors from all persons handling or responsible for Association funds. The amount of such bonds shall be determined by the Directors. The premiums on such bonds shall be paid by the Association. The bonds shall be in an amount sufficient to equal the monies the individual handles or has control of by a signatory, or a bank account or other depository account.

## ARTICLE VIII

### Parliamentary Rules

Roberts Rules of Order (latest edition) shall govern the conduct of Association meetings when not in conflict with the Declaration of Condominium, Articles of Incorporation, or these By-laws.

## ARTICLE IX

### Amendment to the By-laws

These By-laws may be amended in the following manner:

A. Notice of the subject matter of a proposed amendment shall be included in the notice of any meetings at which a proposed amendment is considered.

B. A resolution adopting the proposed amendment may be proposed by either the Board of Directors of the Association or by the members of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment, may express their approval in writing, provided such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, such approvals must be either by:

1. Not less than seventy-five percent (75%) of the entire membership of the Board of Directors and by not less than seventy-five percent (75%) of the votes of the entire membership of the Association; or

2. By not less than eighty percent (80%) of the votes of the entire membership of the Association; or

3. Until the first election of Directors by all of the Directors.

C. Proviso. Provided, however, that no amendment shall discriminate against any unit owner nor against any unit or class or group of units unless the unit owner so affected shall consent. No amendment shall be made that is



# Boone County, Missouri

## Unofficial Document

in conflict with the Articles of Incorporation or the Declaration of Condominium. Furthermore, no amendment shall affect the control by the Developer of this condominium development until after December 31, 1985.

D. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an amendment of the Declaration and By-Laws, which certificate shall be executed by the officers of the Association with the formalities of a deed. The amendment shall be effective when such certificate and a copy of the amendment are recorded in the public records of Boone County, Missouri.

### ARTICLE X

#### Compliance and Default

A. Violations. In the event of a violation (other than the nonpayment of an assessment) by the unit owner in any of the provisions of the Declaration of Condominium, of these By-laws, or of the applicable portions of the Condominium Act, the Association, by direction of its Board of Directors, may notify the unit owner by written notice of said breach, transmitted by mail, and if such violation shall continue for a period of thirty (30) days from date of the notice, the Association, through its Board of Directors, shall have the right to treat such violation as an intentional and inexcusable and material breach of the Declaration, of the By-laws, or of the pertinent provisions of the Condominium Act, and the Association may then, at its option, have the following elections.

1. An action at law to recover for its damage, on behalf of the Association or on behalf of the other unit owners.

2. An action in equity to enforce performance on the part of the unit owner; or

3. An action in equity for such equitable relief as may be necessary under the circumstances, including injunctive relief.

Upon a finding by the court that the violation complained of is willful and deliberate, the unit owner so violating shall reimburse the Association for reasonable attorneys' fees incurred by it in bringing such action. Failure on the part of the Association to maintain such action at law or in equity within thirty (30) days from date of a written request, signed by a unit owner, sent to the Board of Directors, shall authorize any unit owner to bring an action in equity or suit at law on account of the violation, in the manner provided for in the Condominium Act. Any violations which are deemed by the Board of Directors to be a hazard to public health, may be corrected immediately as an emergency matter by the Association, and the cost thereof shall be charged to the unit owner as a specific item, which shall be a lien against said unit with the same force and effect as if the charge were a part of the common expenses.

B. Negligence or Carelessness of Unit Owners, etc. All unit owners shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, or by that of any member of his family, or his or their guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in insurance rates occasioned by use, misuse, occupancy or abandonment of any unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance company of rights of subrogation. The expense for any maintenance, repair or replacement required, as provided in this Section, shall be charged to said unit owner as a specific item, which shall be a lien against said unit with the same force and effect as if the charge were a part of the common expenses. This section shall also be interpreted as meaning and including said Condominium.

C. 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 attorney's fees as may be determined by the court.

D. No Waiver of Rights. The failure of the Association or of a unit owner to enforce any right, provision, covenant, or condition which may be granted

# Boone County, Missouri

## Unofficial Document

by the condominium documents, shall not constitute a waiver of the right of the Association or unit owner to enforce such right, provisions, covenant or condition of the future.

E. Election of Remedies. All rights, remedies, and privileges granted to the Association or unit owner, pursuant to any terms, provisions, covenants or conditions of the condominium documents, shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be granted to such other party by condominium documents or at law or in equity.

### ARTICLE XI

#### Acquisition of Units

A. Voluntary Sale or Transfer. Upon receipt of a unit owner's written notice of intention to sell or lease, as described in Article X of the Declaration of Condominium to which these By-laws are attached, captioned "Provisions Governing the Alienation or Mortgage of the Condominium Units," the Board of Directors shall have full power and authority to consent to the transaction, as specified in said Notice, or object to same for good cause. The Board of Directors shall have the further right to designate the Association as being "willing to purchase, lease or rent," upon the proposed terms, upon adoption of a resolution by the Board of Directors recommending such purchase or leasing to the membership, but notwithstanding the adoption of such resolution and such designation by the Board of Directors, the Association shall not be bound and shall not so purchase or lease, except upon the authorization and approval of the affirmative vote of voting members casting not less than sixty percent (60%) of the total votes of the unit owners present at any regular or special meeting of the unit owners wherein said matter is voted upon.

B. Acquisition on Foreclosure. At any foreclosure sale of a unit, the Board of Directors may, with the authorization and approval of the affirmative vote of voting members casting not less than sixty percent (60%) of the total votes of the unit owners present at any regular or special meeting of the unit owners wherein said matter is voted upon, acquire in the name of the Association, or its designee, a condominium parcel being foreclosed. The term "foreclosure," as used in this Section, shall mean and include any foreclosure of any lien, excluding the Association's lien for assessments. The power of the Board of Directors to acquire a condominium parcel at any foreclosure sale shall never be interpreted as any requirement or obligation on the part of the said Board of Directors or of the Association to do so at any foreclosure sale, the provisions hereof being permissive in nature and for the purpose of setting forth the power in the Board of Directors to be so should the requisite approval of the voting members be obtained. The Board of Directors shall not be required to obtain the approval of unit owners at the foreclosure sale of a unit, due to the foreclosure of the Association's lien for assessments under the provisions of Articles IX of the Declaration of Condominium, to which these By-laws are attached, captioned "assessments," notwithstanding the sum the Board of Directors determines to bid at such foreclosure sale.

### ARTICLE XII

#### Liability Survives Termination of Membership

The termination of membership in the Condominium shall not relieve or release any such former owner or member from any liability or obligation incurred under or in any way connected with the Condominium during the period of such ownership and membership, or impair any rights or remedies which the Association may have against such former owner and member arising out of, or in any way connected with, such ownership and membership, and the covenants and obligations incident thereto.

Notwithstanding the Condominium by the Association in the condition in the by other owners or

A. Protect. than for permitte or otherwise remo All taxes and spec becoming delinque ever is sooner. .

B. Notice of every lien upo assessments, with

C. Notice of every suit or or any part of th the unit owner is

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## ARTICLE XIII

### Limitation on Liability

Notwithstanding the duty of the Association to maintain and repair parts of the Condominium property and to maintain and repair the pool and facilities, the Association shall not be liable for injury or damage caused by a latent condition in the property, nor for injury or damage caused by the elements or by other owners or persons.

## ARTICLE XIV

### Liens

A. Protection of Property. All liens against a Condominium unit, other than for permitted mortgages, taxes or special assessments, shall be satisfied or otherwise removed within thirty (30) days of the date of the lien attaches. All taxes and special assessments upon a Condominium unit shall be paid before becoming delinquent, as provided in these Condominium documents, or by law, whichever is sooner.

B. 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 attaching of the lien.

C. Notice of Suit. Unit owners shall give notice to the Association of every suit or other proceedings which will or may affect title to his unit or any part of the property, such notice to be given within five (5) days after the unit owner receives notice thereof.

D. Failure to comply with this Article concerning liens will not affect the validity of any judicial sale.

E. Permitted Mortgage Register. The Association may maintain a register of all permitted mortgages, and at the request of a mortgagee, the Association shall forward copies of all notices for unpaid assessments or violations served upon a unit owner to said mortgagee. The Association shall not be required to maintain a register, as provided herein. If a register is maintained, the Board of Directors of the Association may make such charge as it deems appropriate against the applicable unit for supplying the information provided herein.

## ARTICLE XV

### Rules and Regulations

A. The Board of Directors may, from time to time, adopt or amend previously adopted administrative rules and regulations governing the details of the operation, use, and maintenance, management and control of the common elements and limited common elements, and any facilities or services made available to the unit owners. A copy of the Rules and Regulations adopted from time to time, as herein provided, shall, from time to time, be posted in a conspicuous place.

B. As to Condominium Units. The Board of Directors may, from time to time, adopt or amend previously adopted Rules and Regulations governing and restricting the use and maintenance of the Condominium unit(s), provided, however, that copies of such Rules and Regulations, prior to the time the same become effective, shall be posted in a conspicuous place on the Condominium's property, and/or copies of same shall be furnished to each unit owner.

C. As to Recreation Area and Facilities. The use of the pool and facilities shall at all times be subject to such Rules and Regulations as are promulgated pursuant to Article XVII of the Declaration of Condominium to which these By-laws are attached, captioned "Pool and Facilities."

D. Conflict. In the event of any conflict between the Rules and Regulations adopted, from time to time amended, and the Condominium documents, or the Condominium Act, the latter shall prevail. If any unreconciled conflict

# Boone County, Missouri

## Unofficial Document

should exist or hereafter arise with respect to the interpretation of these By-laws and the Declaration of Condominium to which these By-laws are attached, the provisions of said Declaration shall prevail.

The foregoing were adopted as the By-laws of Off Broadway Condominium Association, Inc., a corporation not-for-profit under the laws of the State of Missouri, at the first meeting of the Board of Directors.

OFF BROADWAY CONDOMINIUM ASSOCIATION, INC.,  
a corporation not-for-profit under the laws  
of the State of Missouri

By: John F. Haskins  
JOHN F. HASKINS, President

Carl E. Burpo, Jr.  
CARL E. BURPO, JR., Secretary

STATE OF MISSOURI )  
COUNTY OF BOONE )

The foregoing instrument was acknowledged before me this 2nd day of March, 1981, by John F. Haskins, President of Off Broadway Condominium Association, Inc., a corporation not-for-profit under the laws of the State of Missouri, on behalf of said corporation.



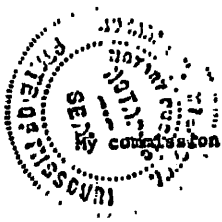
Suzanne M. Wiejaczka  
NOTARY PUBLIC

My commission expires: September 22, 1984

SUZANNE M. WIEJACZKA  
NOTARY PUBLIC STATE OF MISSOURI  
BOONE CO,  
MY COMMISSION EXPIRES SEPT 22 1984

STATE OF MISSOURI )  
COUNTY OF BOONE )

The foregoing instrument was acknowledged before me this 2nd day of March, 1981, by Carl E. Burpo, Jr., Secretary of Off Broadway Condominium Association, Inc., a corporation not-for-profit under the laws of the State of Missouri, on behalf of said corporation.



Suzanne M. Wiejaczka  
NOTARY PUBLIC

My commission expires September 22, 1984

SUZANNE M. WIEJACZKA  
NOTARY PUBLIC STATE OF MISSOURI  
BOONE CO,  
MY COMMISSION EXPIRES SEPT 22 1984

# Boone County, Missouri

## Unofficial Document

"EXHIBIT F"

REAL PROPERTY TO BE EXCLUDED FROM THE CONDOMINIUM DEVELOPMENT BY SUBSEQUENT CONVEYANCE BY OFF BROADWAY CONDOMINIUM ASSOCIATION, INC., A NOT FOR PROFIT CORPORATION, AS ATTORNEY IN FACT FOR ALL UNIT OWNERS TO OFF BROADWAY SALES AND DEVELOPMENT CORPORATION

All or any portion of the following described real property is subject to exclusion by the Developer from this condominium development, pursuant to the provisions of Article III, C, 3, of the Declaration of Condominium, to-wit:

- A. Tract No. 1: Beginning at the intersection of the north right-of-way line of West Broadway and the east line of Tract No. 2 of Boone County Survey No. 7642 as shown by a survey recorded in Book 479, Page 884; thence with said right-of-way line N 84°-52' West 124.9 feet; thence N 0°-08' West, 161.1 feet; thence S 84°-52' East, 125.75 feet to the east line of said Tract No. 2; thence with the east line of said Tract No. 2 S 0°-09'-30" West, 161.05 feet to the point of beginning.
- B. Tract No. 2: Beginning at a point on the north right-of-way line of West Broadway 130.1 feet east of the west line of Boone County Survey No. 7642 as shown by a survey recorded in Book 479, Page 884; thence with the west line of said survey N 0°-22' East, 161.0 feet; thence S 84°-52' East, 122.95 feet; thence S 0°-08' East, 161.1 feet to the north right-of-way line of West Broadway; thence with said right-of-way line N 84°-52' West, 124.4 feet to the point of beginning.
- C. Tract No. 3: Beginning at the northwest corner of Tract No. 1 of Boone County Survey No. 7642 as shown by a survey recorded in Book 479, Page 884; thence with the north line of said survey S 84°-39'-30" East, 526.15 feet to the northeast corner of said survey; thence with the east line of said survey South 0°-09'-30" West, 428.5 feet; thence S 86°-20'-30" West, 200.0 feet; thence N 84°-39'-30" West, 327.5 feet to the west line of said survey; thence with said west line N 0°-22' East, 459.75 feet to the point of beginning.



State of Missouri }  
County of Boone } Sec.

I, the undersigned Recorder of Deeds for said County and State do hereby certify that the foregoing instrument of writing was filed for record in my office on the ..2.. day of ..March....., 19 ..81 at ...3... o'clock .....40..... minutes .....P.....M and is truly recorded in Book .....479..... Page ...952...

Witness my hand and official seal on the day and year aforesaid.

Bettie Johnson, Recorder

by *Bettie Johnson*

