

## DECLARATION OF CONDOMINIUM

OF

### OCEAN PARK CONDOMINIUM SOUTH

OCEAN PARK DEVELOPMENT, INC., a Florida corporation, whose post office address is 333 Taylor Avenue, Cape Canaveral, Florida, hereinafter called the Developer, does hereby make, declare and establish this Declaration of Condominium, hereinafter sometimes referred to as "The Declaration" as and for a plan of condominium apartment ownership for OCEAN PARK CONDOMINIUM SOUTH condominium project which consists of real property and improvements thereon as hereinafter described.

All restrictions, reservations, covenants, conditions and easements contained herein shall constitute covenants running with the land or equitable servitudes upon the land, as the case may be, and shall rule perpetually unless terminated as provided herein and shall be binding upon all parties or persons subsequently owning property in said condominium, and in consideration of the receipt and acceptance of a conveyance, grant, devise, lease or mortgage, all grantees, devisees, lessees, and assigns and all parties claiming by, through or under such persons, agree to be bound by all provisions hereof. Both the burdens imposed and the benefits shall run with each unit and the interests in the common property as herein defined.

#### 1. ESTABLISHMENT OF CONDOMINIUM

The Developer is the owner of the fee simple title to that certain real property situate in the City of Cape Canaveral, in the County of Brevard and State of Florida, which property is more particularly described as follows, to-wit:

Lots 1 through 8 and the East 25 feet of Lot 12,  
together with Lots 13 through 16, all in Block 53,  
of AVON BY THE SEA, according to the Plat  
thereof as recorded in Plat Book 3, Page 7, Public  
Records of Brevard County, Florida,

and on which property the Developer owns three (3) two (2) story apartment buildings, containing a total of sixty-eight (68) apartment units and other appurtenant improvements as hereinafter described. The Developer does hereby submit the above described real property, together with the improvements thereon, to condominium ownership pursuant to the Florida Condominium Act, and hereby declares the same to be known and identified as the OCEAN PARK CONDOMINIUM SOUTH, hereinafter referred to as the "Condominium", "the condominium project", or "the project".

#### 2. DEFINITIONS

"Assessment" means a share of the funds required for the payment of common expenses which from time to time is assessed against the unit owner.

"Association" or "Corporation" shall mean the corporation not for profit as set forth in Exhibit "B" to this Declaration of Condominium which is: OCEAN PARK OWNERS' ASSOCIATION, INC.

"Board or Board of Administration" means the Board of Administration which operates the condominium association and as described in the Articles of Incorporation as set forth in Exhibit "B" to this Declaration of Condominium.

"By-Laws" means the By-Laws attached to this Declaration as Exhibit "C".

"Common Elements" means all of the Condominium property and project except the individual units.

"Common Expenses" means the expenses for which the unit owners are liable to the Association.

"Board Member" means a member of the Association or the representative of a corporate or other legal entity owning a unit who has been elected to membership on the Board and who is then serving on the Board.

"Common Surplus" means the excess of all receipts of the Association including, but not limited to, assessments, rents, profits, and revenues on account of the common areas, over the amount of common expenses. The common surplus is part of the common elements.

"Condominium" means: OCEAN PARK CONDOMINIUM SOUTH property or project and all improvements situated thereon and appertaining thereto as described in this Declaration, all easements and rights appurtenant thereto intended to use in connection with this project.

"Declaration or Declaration of Condominium" means this document establishing: OCEAN PARK CONDOMINIUM SOUTH under the laws of the State of Florida.

"Developer" means: OCEAN PARK DEVELOPMENT, INC., a Florida corporation.

"Institutional Mortgagee" means the owner and holder of a mortgage encumbering a condominium parcel, which owner and holder of said mortgage shall be either a bank, life insurance company, federal or state savings and loan association, real estate or mortgage investment trust, mortgage company, or other mortgagee which shall be acceptable to the Association.

"Limited common element" means and includes those common elements which are reserved for the use of a certain unit or units to the exclusion of other units.

"Operation or Operation of the Condominium" means and includes the administration and management of OCEAN PARK CONDOMINIUM SOUTH property and project.

"Rules and Regulations" shall mean those restrictions or rules and regulations adopted by the Board to maximize the enjoyment by the owners of the condominium unit to protect its value and to make multi-family dwelling more compatible to each owner through the imposition of restraints, prohibitions and requirements which must be uniformly applied and equitable and which shall not be unduly burdensome or unreasonable.

"Unit or Apartment" means each individual apartment located within the project, together with all appurtenances thereto.

"Unit Owner" means the owner of a unit or condominium parcel and is synonymous with member as in statutes.

"Member" means a member of OCEAN PARK OWNERS' ASSOCIATION INC.

### 3. SURVEY AND DESCRIPTION OF IMPROVEMENTS

Attached hereto and made a part hereof is Exhibit "A" which consists of twenty-nine (29) sheets. Exhibit "A" includes the Surveyor's Certification, a map of survey which contains a written legal description of the project property and shows the location of all apartment unit buildings and other improvements on the project property, surveys of the individual apartment units and typical unit floor plans for each of the different type of apartment units in the project. The aforesaid graphic descriptions and the wording on the individual Sheets which comprise Exhibit "A" and which cover all of the improvements in which apartments are located and the Surveyor's Certification were all prepared by JOHN R. CAMPBELL, Professional Land Surveyor, Florida Certificate No. 2351 and have been certified in the manner required by the Florida Condominium Act. Each apartment is identified and designated by a specific number. No apartment has the same numerical designation as any other apartment in the building in which the apartment is located. The three (3) individual buildings are designated as Buildings E, F and G. Building E is subdivided into Buildings E-1, E-2, E-3 and E-4, and all of those subdivided buildings are connected to each other by common walkways and roof elements. Building F is subdivided into Buildings F-1, F-2, F-3 and F-4, and all of those subdivided buildings are connected to each other by common walkways and roof elements. Building G is subdivided into Buildings G-1, G-2 and G-3, and all of those subdivided buildings are connected to each other by common walkways and roof elements.

The specific numbers identifying each apartment, the building in which that apartment is located, the floor of the building on which the apartment is located and the Sheet number of Exhibit "A" on which the graphic description and survey of each apartment is shown

#### BUILDING E

<u>Unit No.</u>	<u>Building</u>	<u>Floor</u>	<u>Sheet No.</u>
1	E-1	1st	4
2	E-1	1st	4
3	E-1	1st	4
4	E-1	1st	4
5	E-3	1st	7
6	E-2	1st	5
7	E-3	1st	7
8	E-2	1st	5
9	E-3	1st	7
10	E-2	1st	5
11	E-3	1st	7
12	E-1	2nd	3
14	E-1	2nd	3
15	E-1	2nd	3
16	E-1	2nd	3
17	E-3	2nd	8
18	E-2	2nd	6
19	E-3	2nd	8
20	E-2	2nd	6
21	E-3	2nd	8
22	E-2	2nd	6
23	E-3	2nd	8
24	E-4	2nd	10

BUILDING F

<u>Unit No.</u>	<u>Building</u>	<u>Floor</u>	<u>Sheet No.</u>
1	F-1	1st	11
2	F-1	1st	11
3	F-1	1st	11
4	F-1	1st	11
5	F-3	1st	15
6	F-2	1st	13
7	F-3	1st	15
8	F-2	1st	13
9	F-3	1st	15
10	F-2	1st	13
11	F-3	1st	15
12	F-1	2nd	12
14	F-1	2nd	12
15	F-1	2nd	12
16	F-1	2nd	12
17	F-3	2nd	16
18	F-2	2nd	14
19	F-3	2nd	16
20	F-2	2nd	14
21	F-3	2nd	16
22	F-2	2nd	14
23	F-3	2nd	16
24	F-4	2nd	18

BUILDING G

<u>Unit No.</u>	<u>Building</u>	<u>Floor</u>	<u>Sheet No.</u>
1	G-3	1st	23
2	G-3	1st	23
3	G-3	1st	23
4	G-3	1st	23
5	G-1	1st	19
6	G-2	1st	21
7	G-1	1st	19
8	G-2	1st	21
9	G-1	1st	19
10	G-2	1st	21
11	G-1	1st	19
12	G-3	2nd	24
14	G-3	2nd	24
15	G-3	2nd	24
16	G-3	2nd	24
17	G-1	2nd	20
18	G-2	2nd	22
19	G-1	2nd	20
20	G-2	2nd	22
21	G-1	2nd	20
22	G-2	2nd	22
23	G-1	2nd	20

Sheets numbered 25 through 29 inclusive of Exhibit "A" show typical floor plans of the different type of apartment in the project, and those floor plans show the dimensions and types of rooms in each apartment.

The project contains two (2) efficiency units, twenty-five (25) one bedroom units, forty (40) two bedroom units and one (1) three bedroom unit. All of the units except the efficiency units contain a living room, kitchen, dining area, and a bath room. Each apartment includes as a limited common element, either a concrete patio (referred to as a "stoop" in Exhibit "A") with first floor units or a balcony with second floor units.

#### 4. OWNERSHIP OF APARTMENTS AND APPURTENANT SHARE IN COMMON ELEMENTS AND COMMON SURPLUS, AND SHARE OF COMMON EXPENSES

Each apartment unit shall be conveyed as an individual property capable of independent use and fee simple ownership and the owner or owners of each apartment shall own, as an appurtenance to the ownership of each said apartment, a divided share of all common elements of the condominium which includes, but is not limited to ground support area, parking areas, walks, yard area, foundations, etc., and substantial portion of the exterior walls, floors, ceiling and walls between units. The space within any of the units and common property is hereby declared to be appurtenant to each unit and such interest shall be deemed conveyed, devised, encumbered or otherwise included with the unit even though such interest is not expressly mentioned or described in the conveyance or other instrument. Any instrument whether a conveyance, mortgage or otherwise which described only a portion of the space within any unit shall be deemed to describe the entire unit owned by the person executing such instrument and that unit's undivided interest in all common elements of the condominium.

The owners of each efficiency apartment shall own an undivided 1.30 percent of all common elements of the condominium project.

The owners of each two (2) bedroom apartment shall own an undivided 1.53 percent of all common elements of the condominium project.

The Owners of each one (1) bedroom apartment shall own an undivided 1.38 percent of all common elements of the condominium project.

The Owner of the three (3) bedroom apartment shall own an undivided 1.70 percent of all common elements of the condominium project.

The common expenses shall be shared and the common surplus shall be owned in the same proportion as each unit owner's share of the ownership of the common elements as stated hereinabove, that is each efficiency owner's share is 1.30 percent; each one bedroom owner's share is 1.38 percent; each two bedroom owner's share is 1.53 percent and each three bedroom owner's share is 1.70 percent.

The Developer hereby, and each subsequent owner of any interest in a unit and in the common property, by acceptance of a conveyance or any instrument transferring an interest, waives the right of partition of any interest in the common property under the laws of the State of Florida as it exists now or hereafter until this condominium apartment project is terminated according to the provisions hereof or by law. Any owner may freely convey an interest in a unit together with an undivided interest in the common property subject to the provisions of this Declaration.

All owners of units shall have as an appurtenance to their units a perpetual easement for ingress to and egress from their units over walks and other common property from and to the public streets bounding the condominium complex, and a perpetual right or easement, in common with all persons owning an interest in any unit in the condominium project to the use and enjoyment of all public portions of building and to other common facilities, (including, but not limited to utilities as they now exist) located in the common property.

All property covered by the Exhibits hereto shall be subject to a perpetual easement for encroachments which now exist or hereafter may exist caused by settlement or movement of the building, and such encroachments shall be permitted to remain undisturbed and such easement shall continue until such encroachment no longer exists.

All units and the common property shall be subject to a perpetual easement in gross granted to OCEAN PARK OWNERS' ASSOCIATION, INC., a corporation not for profit, and its successors, for ingress and egress for the purpose of having its employees and agents perform all obligations and duties of the corporation set forth herein; however, that access to the units shall only be at reasonable times.

The Developer hereby grants and conveys unto OCEAN PARK OWNERS' ASSOCIATION, INC., a non profit corporation existing under the laws of the State of Florida, a non-exclusive easement over all passageways, covered walkways, stairwells, stairways, driveways, parking areas, and all other common elements shown on Exhibit "A" attached to this Declaration of Condominium so that all members of OCEAN PARK OWNERS' ASSOCIATION, INC., present and future, their guests and tenants may use the aforesaid common elements for the uses and purpose intended therefor.

#### 5. APARTMENT BOUNDARIES, COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

The apartments of the condominium consist of that volume of space which is contained within the undecorated or unfinished exposed interior surfaces of the perimeter walls, floors and ceilings of the apartments, the boundaries of which apartments are more specifically shown in Exhibit "A", Sheets 3 through 8 inclusive, 10 through 16 inclusive, and 18 through 24 inclusive attached hereto. Sheet 9 shows the office and Sheet 18 shows the laundry room. Dropped ceilings are within the units and the boundary of unit in areas where there are dropped ceilings is the undecorated surface of the ceiling above the dropped ceiling. The solid double lines on the floor plans hereinabove mentioned represent the perimetrical boundaries of the apartments, while the upper and lower boundaries of the apartments are stated in notes on said plans, which notes relate to the elevations of the apartments. A typical unit plan of each type of unit is shown on Sheets 25 through 29 inclusive of Exhibit "A".

There are limited common elements appurtenant to each of the units in this condominium, as shown and reflected by the floor and plot plans, which are directly accessible only through an individual unit. Each of the first floor units has a patio which is a limited common element and each of the second floor apartments has a balcony which is a limited common element. These limited common elements are reserved for the use of the units appurtenant thereto, to the exclusion of other units, and there shall pass with a unit, as appurtenant thereto, the exclusive right to use the limited common elements so appurtenant. Efficiency unit 24, building E-4 has no balcony.

The common elements of the condominium project consist of all of the real and personal property, improvements and facilities, and the common surplus of the condominium other than the apartments, and shall include easements through the apartments for conduits, pipes, ducts, plumbing, wiring, and other facilities, for the furnishing of utility service to the apartments limited common elements and common elements and easements of support in every portion of any apartment which contributes to the support of improvements, and shall further include all personal property held and maintained for the joint use and enjoyment of all of the owners of all apartments.

## 6. ADMINISTRATION OF CONDOMINIUM BY OCEAN PARK OWNERS' ASSOCIATION, INC.

The operation and management of the condominium shall be administered by OCEAN PARK OWNERS' ASSOCIATION, INC., a corporation not for profit organized and existing under the laws of the State of Florida, hereinafter referred to as the corporation or the Association.

The Association shall have all of the powers and duties incident to the operation of the condominium as set forth in this Declaration and the Articles of Incorporation and By-Laws of the Association as well as all of the powers and duties set forth in the Condominium Act where the same are not in conflict with or limited by this Declaration and said Articles and By-Laws. True and correct copies of the Articles of Incorporation of OCEAN PARK OWNERS' ASSOCIATION, INC., a corporation not for profit, and the By-Laws of said corporation are attached hereto, made a part hereof, and marked Exhibits "B" and "C" respectively.

## 7. MEMBERSHIP AND VOTING

The Developer and all persons hereafter owning a vested present interest in the fee title to any of the units shown on the Exhibits hereto and which interest is evidenced by recordation of a proper instrument in the Public Records of Brevard County, Florida, shall automatically be members and their memberships shall automatically terminate when they no longer own such interest.

There shall be a total of sixty-eight votes to be cast by the owners of the condominium units. Such votes shall be apportioned and cast as follows: The owner of each condominium unit (designated as such on the Exhibits attached to this Declaration) shall be entitled to cast one (1) vote. If a condominium unit is owned by the ASSOCIATION, no vote shall be allowed for such condominium unit. Where a condominium unit is owned by more than one person, all the owners thereof shall be collectively entitled to the vote assigned to such unit and such owners shall, in writing, designate an individual who shall be entitled to cast the vote in behalf of the owners of such condominium unit of which he is a part until such authorization shall have been changed in writing. The term "owner" as used herein, shall be deemed to include the Developer.

All of the affairs, policies, regulations and property of the corporation shall be controlled and governed by the Board of the Association whose members are all to be elected annually by the members entitled to vote, as provided in the By-Laws of the Association. Each Board Member shall be the owner of a condominium unit (or a partial owner of a condominium unit where such unit is owned by more than one individual, or if a unit is owned by a corporation, including the Developer, any duly elected officer or officers of an owner corporation may be elected a board member or members).

## 8. BOARD OF ADMINISTRATION

The Board of Administration shall initially consist of three (3) members so long as the Developer retains control of the Association. After the Developer turns over control of the Association to the Members, the number of members may be increased as provided in Section 4 of the By-Laws. The manner of electing members of the Board, officers and other procedural matters relating thereto, shall be as set forth in said Section 4 of the By-Laws.

The Developer shall be entitled to elect all members of the Board and to retain control of the Association until the Developer has conveyed title to 15% of the apartment units to the initial purchasers thereof, at which time the apartment unit owners other than the Developer shall be entitled to elect not less than one-third (1/3) of the members of the Board of Administration.

Apartment unit owners other than the Developer shall be entitled to elect not less than a majority of the members of the Board of Administration as follows:

Three (3) years after sales by the Developer have been closed on 50% of the apartment units; or

Three (3) months after sales have been closed by the Developer on 90% of the apartment units; or

When all of the apartment units have been completed and some of them have been sold, and none of the others are being offered for sale in the ordinary course of business, whichever shall first occur.

Within sixty (60) days after the unit owners other than the Developer are entitled to elect a member or members of the Board of Administration, the Association shall call, and give not less than thirty (30) days nor more than forty (40) days' notice of a meeting of the unit owners to elect the members of the Board of Administration. The meeting may be called and the notice given by any unit owner if the Association fails to do so.

#### 9. COMMON EXPENSES, ASSESSMENTS, COLLECTIONS, LIEN AND ENFORCEMENT, LIMITATIONS

The Board of the Association shall approve annual budgets in advance for each fiscal year and the budgets shall project anticipated income and estimated expenses in sufficient detail to show separate estimates for insurance for fire and extended coverage, vandalism and malicious mischief, for the units and the common property and public liability insurance for the common property, operating expenses, maintenance expenses, repairs, utilities, replacement reserve, and reasonable operating reserve for the common property. Failure of the Board to include any item in the annual budget shall not preclude the Board from levying an additional assessment in any calendar year for which the budget has been projected. In determining such common expenses, the Board may provide for an operating reserve not to exceed fifteen (15%) percent of the total projected common expenses for the year. Each apartment owner shall be liable for the payment to the Association of that owners' share or percentage of the common expenses as provided in Article 9 above.

After adoption of a budget and determination of the annual assessment per unit, the Association shall assess such sum by promptly notifying all owners by delivering or mailing notice thereof to the voting member representing each unit at such member's most recent address as shown by the books and records of the Association. One-twelfth (1/12) of the annual assessment shall be due and payable in advance to the Association on the first day of each month.

Special assessments may be made by the Board from time to time to meet other needs or requirements of the Association in the operation and management of the condominium and to provide for emergencies, repairs or replacements, and infrequently recurring items of maintenance. However, any special assessment which is not connected with an actual operating, managerial or maintenance expense of the condominium shall not be levied without the prior approval of the members owning at least two-thirds (2/3) of the units in the condominium.

The liability for any assessment or portion thereof may not be avoided by a unit owner or waived by reason of such unit owner's waiver of the use and enjoyment of any of the common elements of the condominium or by his abandonment of his apartment.

A unit owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all assessments coming due while he is the unit owner. In a voluntary conveyance the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor for his share of the common expenses up to the time of the conveyance, without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee.

Assessments and installments on them not paid when due bear interest at the rate of eight (8%) percent per annum from due date until paid.

The Association shall have a lien on each condominium parcel for any unpaid assessments with interest plus attorney's fees incurred by the Association incident to the collection of the assessment or enforcement of the lien. The lien is effective from and after recording a claim of lien in the Public Records of Brevard County, Florida, which lien shall state the description of the condominium parcel, the name of the record owner, the amount due and the due dates. The lien shall remain in effect until all sums secured by it have been fully paid or until the lien is barred by law. The claim of lien shall cover only assessments which are due when the claim is recorded. All claims of lien must be signed and acknowledged by an officer or agent of the Association. Upon payment of a claim of lien, the Association shall give the person making payment a recordable satisfaction of the lien. By recording a notice in substantially the following form a unit owner or his agent or attorney may require the Association to enforce a recorded claim of lien against his condominium parcel:

#### Notice of Contest of Lien

TO: OCEAN PARK OWNERS' ASSOCIATION, INC.  
333 Taylor Avenue, Cape Canaveral, Florida 32920

You are notified that the undersigned contests the claim of lien filed by you on \_\_\_\_\_, and recorded in Official Records Book \_\_\_\_\_ at Page \_\_\_\_\_, of the Public Records of Brevard County, Florida, and that the time within which you may file suit to enforce your lien is limited to 90 days from the date of service of this notice.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

Signed: \_\_\_\_\_  
Owner, Agent or Attorney

After service of a copy of the Notice of Contest of Lien, the Association shall have ninety (90) days in which to file an action to enforce the lien, and if the action is not filed within that ninety (90) day period, the lien is void.

The association may bring an action in its name to foreclose a lien for assessments in the manner a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid assessments without waiving any claim of lien.

No foreclosure judgment may be entered until at least thirty (30) days after the association gives written notice to the unit owner of its intention to foreclose its lien to collect the unpaid assessments. If this notice is not given at least thirty (30) days before the foreclosure action is filed, and if the unpaid assessments, including those coming due after the claim of lien is recorded, are paid before the entry of a final judgment of foreclosure, the Association shall not recover attorney's fees or costs. The notice must be given by delivery of a copy of it to the unit owner or by certified mail, return receipt requested, addressed to the unit owner. If

after diligent search and inquiry the Association cannot find the unit owner or a mailing address at which the unit owner will receive the notice, the court may proceed with the foreclosure action and may award attorney's fees and costs as permitted by law. The notice requirements of this subsection are satisfied if the unit owner records a Notice of Contest of Lien as provided in Sec. 718.116(4) Florida Statutes, 1976, Sup.

If the unit owner remains in possession of the unit and the claim of lien is foreclosed, the court in its discretion may require the unit owner to pay a reasonable rental for the unit and the Association is entitled to the appointment of a receiver to collect the rent.

The Association has the power to purchase the condominium parcel at the foreclosure sale and to hold, lease, mortgage and convey it.

When the mortgagee of a first mortgage of record, or other purchaser, of a condominium unit obtains title to the condominium parcel as a result of foreclosure of the first mortgage, or as the result of a deed given in lieu of foreclosure, such acquirer of title and his successors and assigns shall not be liable for the share of common expenses or assessments by the Association pertaining to the condominium parcel or chargeable to the former unit owner of the parcel which became due prior to acquisition of title as a result of the foreclosure, unless the share is secured by a claim of lien for assessments that is recorded prior to the recording of the foreclosed mortgage. The unpaid share of common expenses or assessments are common expenses collectible from all of the unit owners including such acquirer, his successors and assigns. The foregoing provision may apply to any mortgage of record and shall not be restricted to first mortgages of record. A first mortgagee acquiring title to a condominium parcel as a result of foreclosure, or a deed in lieu of foreclosure, may not during the period of its ownership of such parcel, whether or not such parcel is unoccupied, be excused from the payment of some or all of the common expenses coming due during the period of such ownership.

Any unit owner has the right to require from the Association a certificate showing the amount of unpaid assessments against him with respect to his condominium parcel. The holder of a mortgage or other lien of record has the same right as to any condominium parcel upon which he has a lien.

As priority between the lien of a recorded mortgage and the lien for any assessment, the lien for an assessment shall be subordinate and inferior to any recorded institutional first mortgage, regardless when said assessment was due, but not to any other mortgage. For the purposes of this instrument, an "institutional first mortgage" shall be defined as a first mortgage originally executed and delivered to a bank, savings and loan association or insurance company authorized to transact business in the State of Florida, or a mortgage company, or mortgage banking institution or the Developer. The provisions of Section 718.116 of the Florida Condominium Act, where the same are not in conflict with other provisions of this Article 9 of this Declaration, are incorporated herein by reference and made a part hereof. (Florida Statutes, 1976, Sup.)

The Association may at any time require owners to maintain a minimum balance on deposit with the Association to cover future assessments. Said deposit shall be uniform for similar units, in accordance with the percentages set out hereinabove, and shall in no event exceed three (3) months' assessment except as provided in rules promulgated by the Florida Cabinet for full and fair disclosure. Anything in this Declaration or the Exhibits attached hereto, to the contrary notwithstanding, the provisions of said Declaration and Exhibits attached hereto shall not be applicable, effective or binding insofar as the management of the condominium or the

levying of assessments is concerned, until actual management of the condominium project is delivered and turned over by the Developer to OCEAN PARK OWNERS' ASSOCIATION, INC.

Until a turnover is perfected as set out in Article 8 above, the Developer shall retain management of the condominium project, and in so doing shall collect all assessments, the same being payable to the Developer during this interim. The Developer shall, during this interim have a lien on each parcel for any unpaid assessments thereon, against the unit owner and condominium parcel, and have the same remedies of personal action and/or foreclosure of said lien to perfect collection.

The Developer guarantees that so long as the Developer is entitled to elect a majority of the members of the Board, the assessments for common expenses of the condominium, imposed upon the unit owners other than the Developer, will not exceed the following amounts:

For efficiency units	-	\$37.70
For one (1) bedroom units	-	\$40.02
For two (2) bedroom units	-	\$44.37
For the three (3) bedroom unit		\$49.30

and the Developer shall be and is obligated and responsible to pay any amount of common expenses incurred during the period that the Developer is entitled to elect a majority of the Members of the Board and not produced by or realized from the assessments at the guaranteed level and received from the other unit owners. However, upon thirty (30) days written notice to each owner, the Developer may revoke the guarantee provided that the Developer shall thereafter pay the same monthly maintenance charge for each unit then owned by the Developer that the owners of similar units are thereafter required to pay.

Except as otherwise provided in this section, no unit owner may be excused from the payment of the unit owner's proportionate share of the common expenses of the condominium unless all unit owners are likewise proportionately excused from such payment, except that inasmuch as the Developer has guaranteed that the monthly assessment for common expenses of the condominium imposed upon the unit owners other than the Developer will not be increased over the amounts stated hereinabove during the period of time that the Developer is entitled to elect a majority of the Members of the Board and has obligated itself to pay any amount of common expenses incurred by the Condominium during that period and not produced or realized from the assessments at the guaranteed level and received from other unit owners. The Developer shall not be obligated to pay any specific monthly assessment for those units owned by the Developer during that period of time.

Upon turning over the management of the condominium project to the owners through their Association, the Developer shall fully account for all funds collected and pay over to the Association all surplus funds in said account. The Developer fully agrees to abide by all rules and regulations promulgated by the Florida Cabinet.

#### 10. INSURANCE COVERAGE, USE AND DISTRIBUTION OF PROCEEDS, REPAIR OR RECONSTRUCTION AFTER CASUALTY

All insurance policies upon the condominium property shall be purchased by the Association. The named insured shall be the Association, the apartment owners and their mortgagees as their interest may appear. Provisions shall be made for the issuance of mortgagee endorsements and/or memoranda of insurance to the apartment owners and their mortgagees.

The corporation shall be required to obtain and maintain casualty insurance covering all improvements upon the land which are insurable by the Association and as are ordinarily covered by similar types of insurance policies, in an amount equal to the maximum insurable replacement value, exclusive of foundation and excavation costs, as determined annually by the insurance carrier, or if approved by the Board, such insurance may be carried on not less than full insurable value basis. The coverage shall afford protection against loss or damage by fire, windstorm, and other hazards covered by a standard extended coverage endorsement, and such other risks as shall be customarily covered with respect to buildings similar in construction, location and use, including but not limited to vandalism and malicious mischief. The Association shall also be required to carry public liability insurance in sufficient amounts to provide adequate protection to the Association and its members. All liability insurance maintained by the Association shall contain cross liability endorsements to cover liability of the apartment owners as a group to each apartment owner.

The Association may carry such other insurance, or obtain such other coverage as the Board may determine to be desirable. Employer's liability insurance shall be obtained if necessary to comply with the Workmen's Compensation Law.

The premiums upon all insurance policies shall be paid by the association as an operating expense.

Any proceeds becoming due under the casualty insurance policy or policies for loss, damage or destruction sustained to the building or other improvements, shall be payable to the Association, the owners and the institutional mortgagees which have been issued loss payable endorsements and/or memoranda of insurance.

In the event any loss, damage or destruction to the insured premises is not substantial (as such term "substantial" is hereinafter defined), and such loss, damage, or destruction is replaced, repaired or restored with the association's funds, the institutional first mortgagees which are named as payees upon the draft issued by the insurance carrier shall endorse the draft and deliver the same to the association; provided, however, that any repair and restoration on account of physical damage shall restore the improvements to substantially the same condition as existed prior to the casualty.

Substantial loss, damage or destruction, as the term is herein used, shall mean any loss, damage or destruction sustained to the insured improvements which would require an expenditure of sums in excess of seven (7%) percent of the amount of coverage under the association's casualty insurance policy or policies then existing, in order to restore, repair or reconstruct the loss, damage or destruction sustained.

Any casualty insurance proceeds becoming due by reason of substantial loss, damage or destruction sustained to the condominium improvements shall be payable to the association, and all institutional first mortgagees which shall have been issued loss payable mortgagee endorsements, and such proceeds shall be made available to the institutional first mortgagee which shall hold the greater number of mortgages encumbering the apartments in the condominium, which proceeds shall be held in a construction fund to provide for the payment of all work, labor and materials to be furnished to the reconstruction, restoration and repair of the condominium improvements. Disbursements from such construction fund shall be by such institution's usual and customary construction loan fund. Any sums remaining in the construction loan fund after the completion of the restoration, reconstruction and repair of the improvements and full payment therefor shall be paid over to the association and held for, and/or distributed to the apartment owners in proportion to each apartment owner's share of common surplus. If the insurance proceeds payable as the result of such casualty are not sufficient to pay the estimated costs of such restoration, repair and reconstruction, which estimate shall be made prior to proceeding with restoration, repair or reconstruction, the association shall levy a special assessment against the apartment owners for the amount of such insufficiency and shall pay said sum into the aforesaid construction loan fund.

Notwithstanding which institutional first mortgagee holds the greater number of mortgages encumbering the apartments, such mortgagees may agree between themselves as to which one shall administer the construction loan fund.

If the damage sustained to the improvements is less than substantial, as heretofore defined, the Board may determine that it is in the best interests of the association to pay the insurance proceeds into a construction fund to be administered by an institutional first mortgagee as hereinabove provided. No institutional mortgagee shall be required to cause such insurance proceeds to be made available to the association prior to commencement or completion of any necessary restoration, repairs or reconstruction, unless arrangements are made by the association to satisfactorily assure that such restoration, repairs and reconstruction shall be completed. Such assurances may consist of, without limitation, obtaining (1) a construction loan from other sources, (2) a binding contract with a contractor or contractors to perform the necessary restoration, repairs and reconstruction, and (3) the furnishing of performance and payment bonds.

Any restoration, repair or reconstruction made necessary through a casualty, shall be commenced and completed as expeditiously as reasonably possible, and must substantially be in accordance with the plans and specifications for the construction of the original building. In no event shall any reconstruction or repair change the relative locations and approximate dimensions of the common elements and of any apartment, unless an appropriate amendment be made to this Declaration.

Where physical damage has been sustained to the condominium improvements and the insurance proceeds have not been paid into a construction loan fund as hereinabove more fully provided, and where restoration, repair or reconstruction has not been commenced, an institutional mortgagee who has commenced foreclosure proceedings upon a mortgage encumbering an apartment, shall be entitled to receive that portion of the insurance proceeds apportioned to said apartment in the same share as the share in the common elements appurtenant to said apartment.

If substantial loss, damage or destruction shall be sustained to the condominium improvements, and at a special members' meeting called for such purpose, the owners of at least twenty-seven apartments in the condominium vote and agree in writing that the damaged property will not be repaired or reconstructed, the condominium shall be terminated, provided, however, such termination will not be effective without the written consent of all institutional first mortgagees holding mortgages encumbering apartments.

#### 11. RESPONSIBILITY FOR MAINTENANCE AND REPAIRS

The Association shall be responsible for and bear the cost of maintenance, repair and replacement, as the case may be, of all of the common elements (including limited common elements) of the following:

- (a) All of the common elements of the project, including limited common elements;
- (b) All plumbing and sewer lines within the project including those within the perimeter and interior walls of the individual units;
- (c) All vents, including those within perimeter or interior walls of the units;
- (d) All freon supply lines running from the individual air conditioner compressors, which are located on the roof of the buildings to the air handlers of the air conditioners which are located within the individual units;
- (e) The electrical supply wiring running to the circuit breakers in the condominium units;
- (f) All water, sewer, electrical, gas and other utility supply lines, pipes, and ducts located within any of the common elements of the project;
- (g) All air conditioning ducts serving individual condominium units which are located within common elements of the project, if any;

(h) Painting, decorating and cleaning of all exterior surfaces of the condominium project, including exterior doors of the individual condominium units, and the painting of all exterior windows where painting is required.

Each unit owner shall be responsible for and bear the cost of maintenance repair and replacement, as the case may be, of all of the common elements (including limited common elements) of the following:

(a) All air conditioning and heating equipment and systems serving that unit except for the freon supply lines which are to be maintained by the Association;

(b) All electrical, plumbing and kitchen fixtures and appliances located within the unit;

(c) The circuit breaker and all electrical wiring running therefrom to individual outlets and located within the unit;

(d) All carpeting or other floor surfaces, all wall paper, painting and other interior decorating;

(e) All air conditioning duct work located within the unit;

(f) All exterior doors, including sliding glass doors, and windows serving the unit except the painting thereof, which painting shall be done by the Association;

(g) The decorated floor surfaces, if any, of all limited common elements, shall be maintained by the unit owner.

Where loss, damage or destruction is sustained by casualty to any part of the building, whether interior or exterior, whether inside an apartment or not, whether a fixture of equipment attached to the common elements or attached to and completely located inside an apartment, and such loss, damage or destruction is insured for such casualty under the terms of the association's casualty insurance policy or policies, but the insurance proceeds payable on account of such loss, damage or destruction are insufficient for restoration, repair or reconstruction, all the apartment owners shall be specially assessed to make up the deficiency, irrespective of a determination as to whether the loss, damage or destruction is to a part of the building, or to fixtures or equipment which it is an apartment owner's responsibility to maintain.

In the event owners of a unit fail to maintain it as required herein, or make any structural addition or alteration without the required written consent, the association or an owner with an interest in any unit shall have the right to proceed in a court of equity to seek compliance with the provisions hereof. The association shall have the right to levy at any time a special assessment against the owners of the unit for the necessary sums to put the improvements within the unit in good condition and repair or to remove any unauthorized structural addition or alteration. After making such assessment, the association shall have the right to have its employees and agents enter the unit, at reasonable times, to do such work as deemed necessary by the Board to enforce compliance with the provisions hereof.

The Board of the association may enter into a contract with any firm, person or corporation for the maintenance and repair of the condominium property and may join with other condominium corporations on contracting with the same firm, person or corporation for maintenance and repair.

The association shall determine the exterior color scheme of all buildings and shall be responsible for the maintenance thereof, and no owner shall paint an exterior wall, door, window, patio or any exterior surfaces, etc., at any time without the written consent of the association.

## 12. USE RESTRICTIONS

Each apartment is hereby restricted to residential use by the owner or owners thereof, their guests and tenants.

No efficiency or one (1) bedroom unit shall be occupied by more than two (2) persons, both of whom must be adults.

No two (2) bedroom unit shall be occupied by more than four (4) persons, all of whom must be over thirteen (13) years of age and no more than one (1) of whom may be under eighteen (18) years of age.

No three (3) bedroom unit shall be occupied by more than five (5) persons, all of whom must be over thirteen (13) years of age and no more than two (2) of whom may be under eighteen (18) years of age.

Children under thirteen (13) years of age may visit as guests of the occupant in the two (2) and three (3) bedroom units and the total of such visitation in each unit may not exceed a maximum of thirty (30) days per year.

The restriction as to the age and number of minor children may be unconstitutional inasmuch as the 4th District Court of Appeal of the State of Florida has held that restrictions against minor children residing in a condominium project are unconstitutional and, therefore, the Developer makes no warranty as to the constitutionality of this restriction against minor children.

No animal pets other than one (1) dog or one (1) cat may be kept or harbored in any one (1) apartment and the weight of such pet may not exceed fifteen (15) pounds. Snakes or reptiles of all kinds may not be kept or harbored on the project and no birds or fowls except those ordinarily domesticated and kept as pets may be kept on the project.

No nuisances shall be allowed to be committed or maintained upon the condominium property, nor any use or practice that is the source of annoyance to residents or which interfere with the peaceful possession and proper use of the property by its residents. All parts of the property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage allowed to accumulate, nor any fire hazard allowed to exist. No apartment owner shall permit any use of his apartment or make use of the common elements that will increase the cost of insurance upon the condominium property.

No immoral, improper, offensive use shall be made on the condominium property nor any part thereof, and all laws, zoning ordinances and regulations of all governmental authorities having jurisdiction of the condominium shall be observed.

Reasonable regulations concerning the use of the condominium property may be made and amended from time to time by the Board of the Association as provided by its Articles of Incorporation and By-Laws.

The Board or the agents and employees of the association may enter any unit at reasonable times for the purpose of maintenance, inspection, repair and replacement of the improvements within units, or the common property, or in case of emergency threatening units of the common property, to determine compliance with these restrictions, reservations, covenants, conditions and easements, and the By-Laws of the association.

No sign, advertisement or notice of any type shall be shown on the common property or any unit and no exterior antennas and aerials shall be erected except as provided under uniform regulations promulgated by the association. This sub-paragraph shall not apply to the Developer and/or institutional first mortgagees.

An owner shall not place or cause to be placed in any of the project areas, both common and limited, any furniture, packages or objects of any kind. Such areas shall be used for no other reason than for normal transit.

It is prohibited to hang garments, rugs, etc. from the windows or from any of the facades of the project. It is also prohibited to dust rugs, etc. from windows or to clean rugs, etc. by beating on the exterior of the project.

No auto parking space may be used for any purpose other than parking automobiles which are in operating condition; no other vehicles or objects, including, but not limited to trucks, vans, recreational vehicles, motorcycles, trailers, and boats will be parked or placed upon such portions of the condominium property unless permitted by the Board. No parking space shall be used by any other person than an occupant of the condominium who is an actual resident or by a guest or visitor and by such guest or visitor only when such guest or visitor is, in fact, visiting and upon the premises. Automobiles for purposes of this paragraph are defined as motor vehicles designed for transportation of no more than nine passengers and not including sleeping facilities.

Until the Developer has closed all the sales of the apartments in the condominium, neither the other apartment owners nor the association shall interfere with the sale of such apartments. The Developer may make such use of the unsold units and common elements as may facilitate its sales, including, but not limited to maintenance of a sales office, model apartments, the showing of the property, and the display of signs.

### 13. RESTRICTIONS AS TO LEASING, RENTAL AND SALE OF APARTMENTS

No apartment owner shall lease or otherwise rent any apartment for a rental period of less than three (3) months. All rental and leasing shall be done by written Lease and a copy of the Lease shall be furnished to the Association by the Owner within ten (10) days.

The foregoing restriction as to the leasing and rental of apartments in the project have been adopted in order to prohibit the occupancy of apartment units in the project by transient or short term tenants inasmuch as this project is primarily intended to be a permanent residence for the owners of the apartments in the project. Leasing or rental of the apartments to transients or short time tenants will have a serious adverse effect on the owners who permanently reside in the project and will substantially diminish the value of their apartment for permanent residence purpose.

The Board shall have authority to initiate such legal actions in and to request such relief from the Court having jurisdiction over this matter as may be required in order for the Board to fully enforce these restrictions.

There are no restrictions covering the sale by an owner of the owner's apartment and no approval by the association of any sale is required, however, each purchaser of an apartment shall furnish the Association with a copy of the recorded deed by which the purchaser took title to the apartment within ten (10) days following the recording of the deed in the Public Records of Brevard County, Florida.

14. LIMITATIONS UPON RIGHT OF OWNER TO ALTER OR MODIFY APARTMENT

No owner of an apartment shall make any structural modifications or alterations of the apartment. Further, no owner shall cause any improvements or changes to be made on or to the exterior of the apartment buildings, including painting or other decoration, the installation of awnings, shutters, electrical wiring, air conditioning units and other things which might protrude through or be attached to the walls of the apartment building; further, no owner shall in any manner change the appearance of any portion of the apartment building not wholly within the boundaries of his apartment. Anything which an owner is prohibited from doing by the provisions of this paragraph may be done with the written consent of the Board. The Board shall have the authority to give such consent

15. ADDITIONS, ALTERATIONS OR IMPROVEMENTS BY THE ASSOCIATION

Whenever in the judgment of the Board the condominium property shall require additions, alterations or improvements (in the excess of the usual items of maintenance), and the making of such additions, alterations, or improvements shall have been approved by a majority of the apartment owners, the Board shall proceed with such additions, alterations or improvements and shall specially assess all apartment owners for the cost thereof as a common expense, provided, however, no such special assessment shall be levied for improvements which shall exceed one-half of the current regular annual assessment, unless prior written unanimous consent is received from 20 or more of the members. The Board shall have the authority to make changes in, alterations and additions to all common and limited common elements.

16. THIS DECLARATION MAY BE AMENDED AS FOLLOWS:

1. So long as the Developer is entitled to elect a majority of the Board Members, the Developer reserves the right to amend this Declaration without the consent of any owner, subject to the limitations hereinafter stated.

2. After the Developer has turned control of the Association over to the apartment owners, this Declaration may be amended by the approval in writing of at least forty-six (46) of the owners of apartments or by the affirmative vote of at least forty-six (46) of the apartment owners at a duly called meeting of the apartment owners (members) in accordance with the By-Laws. Each amendment hereto shall be executed with the formality required for execution of Deeds and each such amendment shall become effective upon its recordation in the Public Records of Brevard County, Florida, unless the amendment shall provide for a later effective date.

3. No amendment shall change the configuration or size of any apartment in any material fashion, materially alter, change or modify the appurtenances to any apartment or change the percentage by which the owner of any apartment shares the common expenses and owns an undivided interest in the common elements, including the common surplus, unless the record owner of such apartment shall join in the amendment.

4. The designation of the agent for service of process on the association named in the Articles of Incorporation of the Association may be changed from time to time by action of the Board and such change shall not constitute an amendment to this Declaration. Such change or designation of the agent for service of process shall be accomplished by execution of a document with formalities required for execution of a deed and it shall be recorded in the Public Records of Brevard County, Florida and such change shall become effective upon such recording.

5. Correction of scrivener's errors herein, if any, may be accomplished by action of the Board, without the consent of any apartment owner not a member of the Board and such document correcting any scrivener's errors shall be executed in the same manner as provided in the foregoing paragraph.

#### 17. TERMINATION OF THIS CONDOMINIUM PROJECT

The condominium project created and established by this Declaration of Condominium may only be terminated upon the vote of members of the Association owning fifty-one (51) or more of the apartments in the project and the unanimous written consent of all institutional mortgagees holding mortgages encumbering any of the apartments in the project.

Immediately after the required vote of consent to terminate, each and every unit owner shall immediately convey by warranty deed to the association all of said unit owners' right, title and interest to any unit and to the common property, provided the association's officers and employees handling funds have been adequately bonded and the association or any member shall have the right to enforce such conveyance by making specific performance in a court of equity.

The Board shall then sell all of the property at public or private sale upon terms approved in writing by all of the institutional first mortgagees.

Upon the sale of said property, the costs, fees and charges for effecting said sale, the cost of liquidation and dissolution of the association and all obligations incurred by the association in connection with the management and operation of the property up to and including the time distribution is made to the unit owners, shall be paid from the proceeds of said sale, and the remaining balance (hereinafter called "net proceeds of sale") shall be distributed to the unit owners in the manner now about to be set forth.

The distributive share of each unit owner in the net proceeds of sale, though subject to the provisions hereinafter contained, shall be the same as the unit owner's share in the common elements.

Upon the determination of each unit owner's share, as above provided for, the association shall pay out of each unit owner's share all mortgages and other liens encumbering said unit in accordance with their priority, and upon such payments being made, all mortgagees and lienors shall execute and record satisfactions or releases of their liens against said unit or units, regardless of whether the same are paid in full. Thereupon, the Board shall proceed to liquidate and dissolve the association and distribute the remaining portion of each distributive share, if any, to the owner or owners entitled thereto.

If more than one person has an interest in a unit, the association shall pay the remaining distributive share allocable to said unit to the various owners of such unit, excepting that if there is a dispute as to the validity, priority or amount, on mortgages or lien encumbering a unit, then payment shall be made <sup>jointly</sup> to the owner and/or owners of such unit and to the owners and holders of the mortgages and liens encumbering said unit.

As evidence of the member's resolution to abandon, passed by the required vote or written consent of the members, the President and Secretary of the association shall effect and place in the public records of Brevard County, Florida, an affidavit stating that such resolution was properly passed or approved by the members and also shall record the written consent, if any, of institutional first mortgagees to such abandonment.

After such an affidavit has been recorded and all owners have conveyed their interest in the condominium parcel to the association and the association to the purchaser, the title to said property thereafter shall be free and clear from all restrictions, reservations, covenants, conditions and easements set forth in this Declaration, and the purchaser and subsequent grantees of any of said property shall receive title to said lands free and clear thereof.

18. ENCROACHMENTS

If any portion of the common elements now encroaches upon any apartment, or if any apartment now encroaches upon any other apartment or upon any portion of the common elements, or if any encroachment shall hereafter occur as the result of settling of the building, or alteration to the common elements made pursuant to the provisions herein, or as the result of repair and restoration, a valid easement shall exist for the continuance of such encroachment for so long as the same shall exist.

19. CORPORATION TO MAINTAIN REGISTER OF OWNERS AND MORTGAGEES

The association shall at all times maintain a register setting forth the names of all owners of apartments in the condominium, and any purchaser or transferee of an apartment shall notify the association of the names of any party holding a mortgage upon any apartment.

20. ESCROW FOR INSURANCE PREMIUMS

Any institutional first mortgagee holding a mortgage upon an apartment in the condominium shall have the right to cause the association to create and maintain an escrow account for the purpose of assuring the availability of funds with which to pay premium or premiums due from time to time on casualty insurance policy or policies which the association is required to keep in existence, it being understood that the corporation shall deposit in an escrow depository satisfactory to such institutional first mortgagee or institutional first mortgagees a monthly sum equal to one-twelfth (1/12) of the annual amount of such insurance expense, and to contribute such other sum as may be required therefor to the end that there shall be on deposit in said escrow account at least one month prior to the due date for payment of such premium or premiums, a sum which will be sufficient to make full payment therefor.

21. RESPONSIBILITY OF APARTMENT OWNERS

The owner of each apartment shall be governed by and shall comply with the provisions of this Declaration as well as the By-Laws and Articles of Incorporation of the corporation. Any apartment owner shall be liable for the expense of any maintenance, repair or replacement made necessary by his or their guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy, or abandonment of an apartment. Nothing herein contained, however, shall be construed so as to modify any waiver of rights of subrogation by insurance companies.

In any action brought against an apartment owner by the association for damages, or injunctive relief due to such apartment owner's failure to comply with the provisions of this Declaration or By-Laws of the association, the association shall be entitled to court costs, reasonable attorney's fees and expenses incurred by it in connection with the prosecution of such action.

## 22. WAIVER

The failure of the association, an apartment owner or institutional first mortgagee, to enforce any right, provisions, covenant or condition which may be granted herein, or in the By-Laws and Articles of Incorporation of the association, or the failure to insist upon the compliance with same, shall not constitute a waiver of the association, such apartment owner or institutional first mortgagee to enforce such right, provision, covenant or condition or insist upon the compliance with same, in the future.

No breach of any of the provisions contained herein shall defeat or adversely affect the lien of any mortgage at any time made in good faith and for a valuable consideration upon said property, or any part thereof, and made by a bank, savings and Loan association or insurance company authorized to transact business in the State of Florida, or a mortgage company, or the Developer, and engaged in the business of making loans constituting a first lien upon real property, but the rights and remedies herein granted to the Developer, the association and the owner or owners of any part of said condominium, may be enforced against the owner of the portion of said property subject to such mortgage, notwithstanding such mortgage. The purchaser at any sale upon foreclosure shall be bound by all of the provisions herein contained, unless said purchaser be an institutional first mortgagee which had a mortgage on said unit at the time of the institution of said foreclosure action, or the developer.

## 23. CONSTRUCTION

The provisions of this Declaration shall be literally construed so as to effectuate its purposes. The invalidity of any provision herein shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration.

Invalidation of any one or more of these restrictions, reservations, covenants, conditions and easements, or any provisions contained in this Declaration or in a conveyance of a unit by the Developer, by judgment, court order, or law, shall in no wise affect any of the other provisions which shall remain in full force and effect.

In the event that any court should hereafter determine that any provision, as originally drafted herein, violates the rule against perpetuities or any other rule of law because of the duration of the period involved, the period specified in this Declaration shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rule of law, and for such purpose, measuring life shall be that of the youngest incorporator of the association.

These restrictions, reservations, covenants, conditions and easements shall be binding upon and inure to the benefit of all property owners and their grantees, heirs, personal representatives, successors and assigns, and all parties claiming by, through or under any member.

## 24. GENDER

The use of the masculine gender in this Declaration shall be deemed to refer to the feminine or neuter gender, and the use of the singular or plural shall be taken to mean the other whenever the context may require.

## 25. CAPTIONS

The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Declaration nor the intent of any provisions hereof.

26. TYPE OF PROJECT

This condominium project is a conversion of a rental apartment project to the condominium form of ownership and the project buildings are a minimum of thirteen (13) years old.

27. REMEDIES FOR VIOLATIONS:

Any person violating or breaching any of the provisions of this Declaration or any rule or regulation which may be adopted by the Association shall be subject to suit by the Developer, any owner of a unit in the project, or any institutional mortgagee, jointly or severally, at law for damages or in equity, to compel compliance with the terms and conditions of this Declaration and the said rules and regulations adopted by the Association. The Association shall have the right to enter upon any part of the project where a violation of this Declaration exists and to summarily abate or remove the same at the expense of the owner, and such entry and abatement or removal shall not be deemed a trespass. The failure to promptly enforce any of the provisions of this Declaration or the rules and regulations adopted by the Association shall not bar the subsequent enforcement thereof. The prevailing party in any litigation arising under the provisions of this paragraph shall be entitled to payment of all costs incurred by the prevailing party and to payment of a reasonable attorney's fee for the prevailing party's attorney.

IN WITNESS WHEREOF, the above stated Developer has caused these presents to be signed and sealed, this \_\_\_\_\_ day of April, 1978.

Signed, Sealed and Delivered  
In the Presence of:

\_\_\_\_\_  
\_\_\_\_\_

OCEAN PARK DEVELOPMENT, INC.

By \_\_\_\_\_  
Leon M. Newman, President

Attest: \_\_\_\_\_  
Thomas R. Russell, Secretary

(Corporate Seal)

STATE OF FLORIDA  
COUNTY OF BREVARD

Before me, the undersigned authority, personally appeared LEON M. NEWMAN and THOMAS R. RUSSELL, well known to me to be the President and Secretary of OCEAN PARK DEVELOPMENT, INC., a Florida corporation, and they severally acknowledged executing the foregoing Declaration of Condominium freely and voluntarily under the authority duly vested in them by said corporation and that the seal affixed thereto is the true corporate seal of said corporation.

WITNESS my hand and official seal this \_\_\_\_\_ day of April, 1978.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

INDEX

(Wherever S is indicated, S denotes  
Sheet No. of Exhibit "A")

	<u>PAGE NO.</u>
Additions to Condominium Property	17
Administration of Project	7
 <u>APARTMENTS</u>	
Alterations of	17
Boundaries of	6
Leasing or rental - restricted	16
Sale of (no restrictions)	16
Insurance of	11
Numbered and designated	3 & 4
Appurtenances to	5
Conveyance of	5
Repair of and Maintenance	13
Use Restrictions of	15
Modification of	17
Apartment Numbers	3 & 4
Responsibility of owners of	19
Amendment of Declaration	17
Articles of Incorporation	Exhibit B
 <u>Assessments</u>	
Share of	5
Method of Making	8
Liability for payment of	8 & 9
Lien for	9
Priority of Liens to	10
Developer's Liability for payment	11
Association Powers	8
 <u>BOARD OF ADMINISTRATION</u>	
Assessments by	8
Membership of	7
Developer's Control of	7
Authority of	7
 <u>APARTMENTS</u>	
Numbered	3 & 4
Locations	S2
Budget	8
BY-LAWS	Exhibit C
 <u>COMMON ELEMENTS</u>	
Description of	6
Owner's % of ownership of	5
Limited Common Elements	6
Common Surplus	5
Common Assessments	5, 9 & 10
Control of Association by Developer	7
Conveyance of Title to Units	13
Construing of Declaration	20
Control of Project by Association	7
Definition of Terms	2
Description of Improvements	2
 <u>DEVELOPER</u>	
Name of	1
Control of Association by	7

Payment of Assessments by	11
Guarantee of Assessments by	11
Establishment of Condominium	1
Gender	20
Insurance	11
Legal description of Project	1
Liens for Assessments	9
Limited Common elements described	6
Limitations on Alterations	17
Leasing restrictions	16
Liability for payment of assessments	8 & 9
Locations of improvements	S2
Maintenance responsibilities	11
Membership in Association	7
Mortgagee's liability for assessments	10
Number of Apartment Units	5
Owners' responsibilities for repairs	14
Owners' right to vote in association	7
Owners' membership in Association	7
Owners' share in common elements	5
Owners' share of common expenses	5
Partition of Apartments	5
Plot Plan of project	S2
Remedies for violations	21
Rental and lease restrictions	16
Restrictions use general	15
Repair of damaged property	13
Register of owners	19
Survey of Project	S 2 to 29
Surveyor's Certificate	S1
Termination of project	16
Typical Floor Plans of Units	S 10, 18, 25 to 29
 <u>USE RESTRICTIONS</u>	
General	16
Rental and Leasing	17
Voting of members (Owners) of Association	6
Waivers	20