

# **BY-LAWS**

ARTICLES AND BYLAWS  
OF

VILLAS EAST FIVE ASSOCIATION

ARTICLE I

PLAN OF APARTMENT OWNERSHIP

Section 1. APARTMENT OWNERSHIP. The project located at 48th Street & the Maricopa Freeway, City of Phoenix, State of Arizona, known as "Hallcraft Villas East Five Condominium" is submitted to the provisions of the horizontal property regime laws of Arizona.

Section 2. BY-LAWS APPLICABILITY. The provisions of these By-Laws are applicable to the project. (The term "project" as used herein shall include the land.)

Section 3. PERSONAL APPLICATION. All present or future owners, tenants, future tenants, or their employers, or any other person that might use the facilities of the project in any manner, are subject to the regulations as set forth in these By-Laws.

The mere acquisition or rental of any of the family units (hereinafter referred to as "units") of the project or the mere act of occupancy of any of said units will signify that these By-Laws are accepted, ratified, and will be complied with.

ARTICLE II

VOTING, MAJORITY OF OWNERS, QUORUM, PROXIES

Section 1. VOTING. Voting shall be on a percentage basis and the percentage of the vote to which the owner is entitled is the percentage assigned to the family unit or units in the Declaration of Horizontal Property Regime.

Section 2. MAJORITY OF OWNERS. As used in these By-Laws the term "majority of owners" shall mean those owners holding 51% of the votes in accordance with the percentages assigned in the Declaration of Horizontal Property Regime.

Section 3. QUORUM. Except as otherwise provided in these By-Laws, the presence in person or by proxy of a "majority of owners" as defined in Section 2 of This Article shall constitute a quorum.

Section 4. PROXIES. Votes may be cast in person or by proxy. Proxies must be filed with the Secretary before the appointed time of each meeting.

EXHIBIT "B"

Section 5. CUMULATIVE VOTING. The provisions of Section 10-271, A.R.S., regarding cumulative voting shall apply to the Association.

ARTICLE III

ADMINISTRATION

Section 1. ASSOCIATION RESPONSIBILITIES. The owners of the units will constitute the Association of Owners (hereinafter referred to as "Association") who will have the responsibility of administering and project, approving the annual budget, establishing and collecting monthly assessments and arranging for the management of the project pursuant to an agreement, containing provisions relating to the duties, obligations, removal and compensation of the management agent. Except as otherwise provided, decisions and resolutions of the Association shall require approval by a majority of owners.

Section 2. PLACE OF MEETINGS. Meetings of the Association shall be held at the principal office of the project or such other suitable place convenient to the owners as may be designated by the Board of Directors.

Section 3. ANNUAL MEETINGS. The first annual meeting of the Association shall be held on December 27, 1972. Thereafter, the annual meetings of the Association shall be held on the Fourth Wednesday of December of each succeeding year. At such meetings there shall be elected by ballot of the owners a Board of Directors in accordance with the requirements of Section 5 of Article IV of these By-Laws. The owners may also transact such other business of the Association as may properly come before them.

Section 4. SPECIAL MEETINGS. It shall be the duty of the President to call a special meeting of the owners as directed by resolution of the Board of Directors or upon a petition signed by a majority of the owners and having been presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of four-fifths of the owners present, either in person or by proxy.

Section 5. NOTICE OF MEETINGS. It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each owner of record, at least 5 but not more than 10 days prior to such meeting. The mailing of a notice in the manner provided in this Section shall be considered notice served.

Section 6. ADJOURNED MEETINGS. If any meeting of owners cannot be organized because a quorum has not attended, the owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called.

Section 7. ORDER OF BUSINESS. The order of business at all meetings of the owners of units shall be as follows:

- (a) Roll call.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading of minutes of preceding meeting.
- (d) Reports of officers.
- (e) Report of Committees.
- (f) Election of inspectors of election.
- (g) Election of directors.
- (h) Unfinished business.
- (i) New business.

#### ARTICLE IV

##### BOARD OF DIRECTORS

Section 1. NUMBER AND QUALIFICATION. The affairs of the Association shall be governed by a Board of Directors composed of five (5) persons, all of whom must be owners of units in the project.

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

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

- (a) Care, upkeep and surveillance of the project and the common areas and facilities and the restricted common areas and facilities.
- (b) Provide exterior maintenance for each multifamily structure as follows: paint, repair, replace and care for roofs, gutters, downspouts and exterior building surfaces, except glass surfaces, subject to the provisions of Article VI, Section 2(c) hereof.
- (c) Provide maintenance for the private sewers located upon the common areas as follows: repair, replace and clean all sewer lines from point of origin to intersection with the public sewer facility.

- (d) Provide water for all the properties herein for domestic consumption and landscape maintenance. The costs of said water shall be paid by the Association from the monthly assessments herein-after described.
- (e) Provide maintenance for systems used for private water services located on the common area as follows: repair and replace all water lines from the perimeter wall of the serviced dwelling units to intersection with the public water facility.
- (f) Maintain and otherwise manage and be responsible for the removal of rubbish from the project, the common areas and facilities and the restricted common areas and facilities.
- (g) Provide maintenance, repairs and replacement of all private drives.
- (h) Collection of monthly assessments from the owners.
- (i) Designation and dismissal of the personnel necessary for the maintenance and operation of the project, the common areas and facilities and the restricted common areas and facilities.

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

Section 5. ELECTION AND TERM OF OFFICE. At the first annual meeting of the Association the term of office of two Directors shall be fixed for three (3) years. The term of office of two Directors shall be fixed at two (2) years, and the term of office of one Director shall be fixed at one (1) year. At the expiration of the initial term of office of each respective Director, his successor shall be elected to serve a term of three (3) years. The Directors shall hold office until their successors have been elected and hold their first meeting.

Section 6. VACANCIES. Vacancies in the Board of Directors caused by any reason other than the removal of a Director by a vote of the Association shall be filled by vote of the majority of the remaining Directors, even though they may constitute less than a quorum; and, each person so elected shall be a Director until a successor is elected at the next annual meeting of the Association.

Section 7. REMOVAL OF DIRECTORS. At any regular or special meeting duly called, any one or more of the Directors may be removed with or without cause by a majority of the owners and a successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the owners shall be given an opportunity to be heard at the meeting.

Section 8. ORGANIZATION MEETING. The first meeting of a newly elected Board of Directors shall be held within ten (10) days of election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected; and no notice shall be necessary to the newly elected Directors in order legally to constitute such meeting, providing a majority of the whole Board shall be present.

Section 9. REGULAR MEETING. 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, but at least two such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each Director, personally or by mail, telephone or telegraph, at least three (3) days prior to the day named for such meeting.

Section 10. SPECIAL MEETINGS. Special meetings of the Board of Directors may be called by the President on three days notice to each Director, given personally or by mail, telephone or telegraph, which notice shall state the time, place (as hereinabove provided) and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least three Directors.

Section 11. WAIVER OF NOTICE. Before or at any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 12. BOARD OF DIRECTOR'S QUORUM. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 13. FIDELITY BONDS. The Board of Directors shall require that all officers and employees of the Association handling or responsible for Association funds shall furnish

adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

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ARTICLE V

OFFICERS

Section 1. DESIGNATION. The principal officers of the Association shall be a President, a Vice-President, a Secretary, and a Treasurer, all of whom shall be elected by and from the Board of Directors. The Directors may appoint an assistant treasurer, and an assistant secretary, and such other officers as in their judgment may be necessary.

Section 2. ELECTION OF OFFICERS. The officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board and shall hold office at the pleasure of the Board.

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

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

Section 5. VICE PRESIDENT. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board to so do on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors.

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

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

ARTICLE VI

OBLIGATIONS OF THE OWNERS

Section 1. ASSESSMENTS. All owners are obligated to pay monthly assessments imposed by the Association to meet all project communal expenses, which may include a liability insurance policy premium and an insurance premium for a policy to cover repair and reconstruction work in case of fire or other hazard included in the standard extended coverage form. The assessments shall be made pro rata according to the value of the unit owned, as stipulated in the Declaration of Horizontal Property Regime.

Section 2. MAINTENANCE AND REPAIR.

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

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

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

Section 3. USE OF FAMILY UNITS - INTERNAL CHANGES.

(a) All units shall be utilized for residential purposes only.

(b) An owner shall not make structural modifications or alterations in his unit or installations located therein without previously notifying the Association in writing, through the Management Agent, if any, or through the President of the Board of Directors, if no management agent is employed. The Association shall have the obligation to answer within 14 days and failure to do so within the stipulated time shall mean



that there is no objection to the proposed modification or alteration.

Section 4. USE OF COMMON AREAS AND FACILITIES AND RESTRICTED COMMON AREAS AND FACILITIES.

(a) Use Regulations. The common areas and facilities and restricted common areas and facilities shall be used for only such purposes as may be permitted by the Association. An owner shall abide by such rules and regulations as the Association may from time to time adopt relating to the time, manner, and nature of the use of the common areas and facilities and the restricted common areas and facilities.

(b) Dedications or Transfers. The Association shall have the right to dedicate or transfer all or any part of the common areas to any public agency, authority or utility for any proper purpose.

Section 5. RIGHT OF ENTRY.

(a) Any owner shall grant the right of entry to the management agent or to any other person authorized by the Board of Directors or the Association in case of any emergency originating in or threatening his unit, whether the owner is present at the time or not.

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

Section 6. RULES OF CONDUCT.

(a) No resident of the project shall post any advertisements, or posters of any kind, in or on the project except as authorized by the Association.

(b) Residents shall exercise extreme care about making noises or the use of musical instruments, radios, television and amplifiers that may disturb other residents. Keeping domestic animals will abide by the regulations adopted from time to time by the Association.

(c) It is prohibited to hang garments, rugs, etc., from the windows or from any of the facades of the project.

(d) It is prohibited to dust rugs, etc., from the windows, or to clean rugs, etc., by beating on the exterior part of the project.

(c) It is prohibited to throw garbage or trash outside the disposal installations provided for such purposes in the service areas.

(f) No owner, resident or lessee shall install wiring for electrical or telephone installation, television antennae, machines or air conditioning units, etc., on the exterior of the project or that protrude through the walls or the roof of the project except as authorized by the Association.

ARTICLE VII

AMENDMENTS TO PLAN OF APARTMENT OWNERSHIP

Section 1. BY-LAWS. These By-Laws may be amended by the Association in a duly constituted meeting for such purpose and no amendment shall take effect unless approved by owners representing at least 75% of the total value of all units in the project as shown in the Declaration of Horizontal Property Regime, except Article VIII of these By-Laws may not be rescinded or amended without the written approval of all mortgagees of units in the project.

ARTICLE VIII

MORTGAGEES

Section 1. NOTICE TO ASSOCIATION. An owner who mortgages his unit shall notify the Association of the name and address of his mortgagee; and the Association shall maintain such information in a book entitled "Mortgagees of Units".

Section 2. NOTIFICATION OF DEFAULT. The Association shall in writing notify a mortgagee of a unit of any default of the mortgagor of such unit in the performance of such mortgage obligations under the Declaration of Horizontal Property Regime and these By-Laws (hereafter "Condominium Documents") which is not cured within thirty (30) days.

Section 3. NOTIFICATION OF CHANGE IN CONDOMINIUM DOCUMENTS. The Association shall in writing notify all mortgagees, thirty (30) days prior to the effective date thereof, of -- (i) any change in the Condominium Documents, and (ii), any change of Management Agent of the condominium project.

Section 4. WAIVER RESTRICTIONS. The holder of the mortgage which comes into possession of the unit pursuant to the remedies provided in the mortgage, or foreclosure of the mortgage, or deed in lieu of foreclosure, shall be exempt from any "right of first refusal" or other restriction on the sale or rental of the mortgaged unit, including but not limited

to, restrictions on the age of unit occupants and restrictions on the posting of signs pertaining to the sale or rental of the unit.

Section 5. WAIVER OF UNPAID ASSESSMENTS. Any holder of the mortgage which comes into possession of the unit pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed in lieu of foreclosure, shall take the property free of any claims for unpaid assessments or charges against the mortgaged unit which accrue prior to the time such holder comes into possession of the unit.

Section 6. PROHIBITED ACTS. Unless all holders of first mortgage liens on individual units have given their prior written approval, the Association shall not:

(a) Fail to employ a Management Agent for the condominium project.

(b) Change the pro rata interest or obligations (as presently provided in the Declaration of Horizontal Property Regime) of any unit for purposes of levying assessments and charges and determining shares of the common elements and proceeds of the project.

(c) Partition or subdivide any unit or the common elements of the project.

(d) By act or omission seek to abandon the condominium status of the project except as provided by statute in case of substantial loss to the units and common elements of the condominium project.

ARTICLE IX

PARTY WALLS

Section 1. RIGHTS AND DUTIES. The rights and duties of the owners of any apartment within this condominium project with respect to party walls shall be governed by the following:

(a) Each wall, including patio walls, which is constructed as part of the original construction of the multi-family structure, any part of which is placed on the dividing line between separate apartment units, shall constitute a party wall. With respect to any such wall, each of the adjoining owners shall assume the burdens and be entitled to the benefits of these restrictive covenants, and, to the extent not inconsistent herewith, the general rules of law regarding party walls shall be applied thereto.

(b) In the event any such party wall is damaged or destroyed through the act of one adjoining owner, or any

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of his guests, tenants, licensees, agents, or members of his family (whether or not such act is negligent or otherwise culpable) so as to deprive the other adjoining owner of the full use and enjoyment of such wall; then the first of such owners shall forthwith proceed to rebuild and repair the same to as good condition as formerly without cost to the adjoining owner.

(c) In the event any such party wall is damaged or destroyed by some cause other than the act of one of the adjoining owners, his agents, tenants, licensees, guests or family (including ordinary wear and tear and deterioration from lapse of time), then in such event, both such adjoining owners shall proceed forthwith to rebuild or repair the same to as good condition as formerly at their joint and equal expense.

(d) Notwithstanding any other provision of this Article, an owner who by his negligent or willful act causes any party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

(e) The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.

(f) In the event of a dispute between owners with respect to the repair or rebuilding of a party wall or with respect to the sharing of the cost thereof, then upon written request of one of such owners addressed to the Association, the matter shall be submitted to arbitration under such rules as may from time to time be adopted by the Association. If no such rules have been adopted, then the matter shall be submitted to three arbitrators, one chosen by each of the owners and the third by the two so chosen or, if the two arbitrators cannot agree as to the selection of the third arbitrator within five (5) days, then by any Judge of the Superior Court of Maricopa County, Arizona. A determination of the matter signed by any two of the three arbitrators shall be binding upon the owners, who shall share the cost of arbitration equally. In the event one party fails to choose an arbitrator within ten (10) days after personal receipt of a request in writing for arbitration from the other party, then said other party shall have the right and power to choose both arbitrators.

(g) These covenants shall be binding upon the heirs and assigns of any owners, but no person shall be liable for any act or omission respecting any party wall except such as took place while an owner.

ARTICLE X

PARKING RIGHTS

Section 1. ALLOCATION. Ownership of each family unit shall entitle the owner or owners thereof to the use of not more than two (2) automobile parking spaces, which shall be as near and convenient to said family unit as reasonably possible, together with the right of ingress and egress in and upon said parking area. The Association shall assign two (2) vehicle parking spaces to each family unit.

ARTICLE XI

COMPLIANCE

These By-Laws are set forth to comply with the requirements of the statutes relating to condominium projects in Arizona.

In case any of these By-Laws conflict with the provisions of said statute, it is hereby agreed and accepted that the provisions of the statute will apply.

APPROVED AND ADOPTED this 6th day of December 19 72.

ARIZONA TITLE INSURANCE AND TRUST COMPANY, an Arizona corporation, as Trustee under Trust No. 3708

By Stanley Mathisen Assistant Vice-President

STATE OF ARIZONA )
County of Maricopa ) ss.

On this 6th day of December, 1972, before me, the undersigned officer, personally appeared STANLEY MATHISEN, who acknowledged himself to be the Ass't Vice-Pres. of ARIZONA TITLE INSURANCE AND TRUST COMPANY, and that he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Mary K. Connors Notary Public

My Commission Expires:

February 8, 1976