

BY-LAWS  
OF  
J. W. BROOKS BUILDING UNIT OWNERS ASSOCIATION, INC.

ARTICLE I

GENERAL

A. Principal Office: The principal office of J. W. BROOKS BUILDING UNIT OWNERS ASSOCIATION, INC. shall be located at 2122 Fowler Street, Wilmington, North Carolina 28403.

B. Registered Office: The registered office of the association, which by law is required to be maintained in the State of North Carolina, shall be located at 2122 Fowler Street, Wilmington, North Carolina 28403, or at such other place within the State of North Carolina as may, from time to time, be fixed and determined by the Board of Directors.

C. Other Offices: The association may have offices at such other places, either within or outside the State of North Carolina, as the Board of Directors may from time to time determine.

D. Definitions: As used herein, the term "Association" is as defined in the Declaration of Condominium, J. W. BROOKS BUILDING CONDOMINIUM; and all definitions set forth in that Declaration, to which these By-Laws are attached, shall be applicable herein, unless otherwise defined.

As used in these By-Laws, "common areas and facilities" shall include the portion of the Condominium Property owned, in undivided interest, by all the Owners, as set forth in the Declaration, and any and all real property, together with improvements, fixtures and appurtenances; thereto, all fixtures and personal property, all rights and privileges, and such other possessory or use interest in land or facilities owned by or available for use by the Association.

ARTICLE II

MEMBERS

A. General: The membership shall mean and refer to every person or entity who is an owner of a Condominium Unit of J. W. BROOKS BUILDING CONDOMINIUM in Wilmington, North Carolina as defined in the Declarations of Condominium creating J. W. BROOKS BUILDING CONDOMINIUM which is to be recorded in the Office of the Register of Deeds of New Hanover County, North Carolina, and membership in the Association shall be limited to the owners of those Condominium Units.

B. Class: There shall be only one class of members. The voting rights of the members shall be as set forth in Article III of these By-Laws.

C. Transfer of Membership and Ownership: Membership in the Association may be transferred only as an incident to the transfer of the transferor's Condominium Unit and his undivided interest in the common areas and facilities of the Condominium, and such transfer shall be subject to the procedures set forth in the Condominium Documents.

ARTICLE III

MEETING OF MEMBERS

A. First Annual Meeting: The first annual meeting of the members shall not take place until the earlier of (1) the transfer by Declarants of all Condominium Units, or (2) notice by Declarants

transaction of business. In the absence of a quorum, a majority in interest of the members entitled to vote, present in person or by proxy, may adjourn the meeting from time to time. At any such adjourned meeting, at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally called if a quorum had been there present. The members present in person or by proxy at a meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

I. Voting: There shall be appurtenant to each Condominium Unit a total of one vote for the members who are Owners of that Unit. It is the intent that each Unit will have only one vote regardless of the number of members who may claim an ownership interest in that Unit. If more than one person or entity owns a Unit, they shall file a certificate with the Secretary naming the person authorized to cast votes for that Unit. If the same is not on file with the Secretary, the vote of any co-owner present at the meeting shall be accepted as the vote of all co-owners of each such Unit.

At any meeting of the members, every member having the right to vote shall be entitled to vote in person or by proxy. A proxy must be in writing and filed with the Secretary not later than the time that meeting is called to order. Every proxy shall be revocable and shall automatically be revoked when the person who appointed the proxy attends the meeting or ceases to have voting privileges in determining the presence or absence of a quorum at any meeting.

J. Informal Action by Members: Any action which may be taken by the members at a meeting thereof may be taken without a meeting if consent in writing, setting forth the action taken, shall be signed by all of the persons who would be entitled to vote such action at a meeting and filed with the Secretary of the Association. Any consent so filed with the Secretary of the Association shall be filed in the corporate minute book in like manner as minutes of a meeting. Any such consent shall have the same force and effect as a unanimous vote of members.

K. Order of Business: The order of meetings of the members, as far as practical, will be:

1. Roll call and certification of proxies.
2. Proof of Notice of Meeting or Waivers of Notice.
3. Reading of Minutes of prior Meeting.
4. Officers' Reports.
5. Committee Reports.
6. Election of Directors.
7. Unfinished Business.
8. New Business.
9. Adjournment.

#### ARTICLE IV

##### ORGANIZATION

The property, affairs and business of the Association shall be managed by a Board of Directors, which Board, other than the first Board of Directors, shall be elected by the members of the Association. The Board shall elect officers of the Association, including a President and Secretary/Treasurer, and such other officers and assistant officers as, from time to time, may be deemed necessary, who shall carry out such functions and duties as are prescribed by these By-Laws and the Board.

## ARTICLE V

### BOARD OF DIRECTORS

- A. First Board: The first Board of Directors shall consist of three directors, who shall be E. W. Merritt, Jr., Eugene R. Strader, Jr. and H. Kenneth Stephens, II, who shall hold office and exercise all powers of the Board.
- B. Number: Not later than the termination of any period of Declarant control, the unit owners shall elect an Executive Board of at least three members, all of whom must be unit owners.
- C. Term: The first Board of Directors elected by the members shall be elected to serve until such time as the annual meeting is held, and thereafter, for one year terms, being elected at the annual meeting of the members.
- D. Election of Directors: Except as provided in this Article, the Directors shall be elected at the annual meeting of members and the persons who shall receive the highest number of votes shall be elected Directors.
- E. Cumulative Voting: There shall be no right of cumulative voting for the election of Directors.
- F. Removal of Directors: The Board of Directors or any individual Director may be removed from office with or without cause at any meeting, at which a quorum is present, by a vote of a majority of the members entitled to vote at an election of Directors; provided, however, that no Director appointed by Declarants may be removed other than by Declarants. If any or all Directors are so removed, new Directors may be elected at the same meeting.
- G. Vacancies: A vacancy in the Board of Directors created by an increase in the authorized number of Directors or in the required number of Directors shall be filled only by election at an annual meeting of members or at a special meeting of members called for that purpose. Any vacancy in the Board of Directors created other than by an increase in the number of Directors may be filled by a majority of the remaining Directors, though less than a quorum, or by the sole remaining Director. The members may elect a Director at any time to fill any vacancy not filled by the Directors. In the event of the resignation of a Director the members, at any time after tender of such resignation, may elect a successor to such Director to take office as of the effective date of such resignation.
- H. Compensation: No compensation shall be paid to members of the Board for services. However any Director may be reimbursed for his actual expense incurred in the performance of his duties as long as such expense receives approval of the Board and is within the approved Association budget.
- I. Resignations: Any Director may resign at any time by giving written notice to the President of the Secretary of the Association. Such resignation shall take effect the time specified therein, or if no time is specified therein, at the time such resignation is received by the President or the Secretary of the Association unless it shall be necessary to accept such resignation before it becomes effective, in which event the resignation shall take effect upon its acceptance by the Board of Directors. Unless otherwise specified herein, the acceptance of any such resignation shall not be necessary to make it effective.
- J. Actions of First Board: The undertakings and contracts authorized by, and all acts taken by, the first Board of Directors shall be binding upon the Association in the same manner as though such undertakings, contracts and motions had been authorized by a

Board of Directors duly elected by the membership, so long as such undertakings may be exercised by the Board of Directors of the Association in accordance with all applicable documents and these By-Laws.

K. Powers and Duties: all of the Powers and duties of the Association shall be exercised by the Board of Directors, including those existing under the common laws and statutes, these By-Laws and the Declaration of Condominium, and including the Declaration and these By-Laws. Such powers and duties shall be exercised in accordance with said By-Laws and the Declaration of Condominium, and shall include, without limiting the generality of the foregoing, the following powers:

- (1) To make, levy and collect, regular and special assessments against the members and members' Condominium Units to defray the costs of the Condominium and its facilities and to use said proceeds in the exercise of the powers and duties of the Association;
- (2) To establish the time within which payment of assessments are due;
- (3) To maintain, care for, preserve, repair, replace, operate and manage the common areas and facilities, whenever the same is required to be done and accomplished by the Association for the benefit of its members, and further to approve any expenditures made or to be made for the same;
- (4) To purchase the necessary equipment and tools required in the maintenance, repair, replacement, management, operation, care and preservation referred to herein;
- (5) To enter into and upon the Units when necessary and at as little inconvenience to the owner as possible in connection with such maintenance, care, preservation, repair, replacement, management and operation;
- (6) To insure and keep insured the common areas and facilities against loss from fire and/or other casualty, and the Unit Owners against public liability, and to purchase such other insurance as the Board may deem advisable including insurance against Directors' liability.
- (7) To collect delinquent assessments and late charges by suit or otherwise, abate nuisances and enjoin or seek damages from Owners for violations of these By-Laws, the terms and conditions of the Condominium Documents, and the Rules and Regulations of the Association.
- (8) To carry out the obligations of the Association under any restrictions and/or covenants running with any land submitted to ownership of this Association or its members;
- (9) To designate, as the Board deems appropriate, assigned parking spaces for each Unit, visitors, service vehicles, and other vehicles;
- (10) To compensate, employ, designate and remove personnel necessary for the maintenance, repair, management, operation, care, preservation and replacement of the common areas and facilities;
- (11) To make, amend, and enforce Rules and Regulations governing the use of the common areas and facilities and Condominium Units provided that such Rules and

Regulations and amendments thereto do not conflict with the restrictions and limitations which may be placed upon the use of such property under the terms of the Condominium Documents, to enforce by legal means or proceedings, the provisions of the Rules and Regulations so promulgated and to establish, levy and collect fines, assessments, and penalties for violations of such Rules and Regulations;

(12) To impose a special assessment (against any Owner), not to exceed \$50.00 for each occurrence, for the violation by the Owner or his guests of any Rules or Regulations adopted by the Board or the breach of any By-Law contained herein, or the breach of any provision of the Condominium Documents. (Such assessment shall be in addition to any costs incurred or to be incurred by the Association as a result of the violation of the rule, regulation, By-Law, or provision;)

(13) If any lessee, renter or guest fails to comply with the terms of the Condominium Documents, any rules and Regulations, or these By-Laws, then to terminate any written or oral lease or rental agreement, and to remove from a Unit such lessee, renter or guest, as by law provided;

(14) To propose and adopt an annual budget for the Association;

(15) To reconstruct any part of the common areas and facilities after casualty and to make further improvement to the common areas and facilities, real or personal, and to make and to enter into any and all contracts, necessary or desirable, to accomplish said purposes;

(16) To acquire, purchase, operate, rent, lease, manage and otherwise trade and deal with property, real and personal, including Condominium Units (except Units previously sold and deeded to owners) and common areas in the property as may be necessary or convenient;

(17) To acquire now or at any time hereafter, and to enter into leases and agreements whereby the Association acquires ownership, leaseholds, memberships, and other possessory or use interest in lands or facilities whether or not contiguous to the lands of the Condominium Property to provide enjoyment, recreation or other use or benefit to the owners of Condominium Units;

(18) To contract for the management of the property and common areas and facilities and to designate to such contractor all of the powers and duties of the Association, except those which may be required by the Condominium Documents to have approval of the Board of Directors or membership of this Association;

(19) To pay all taxes and assessments which are or may become liens against any part of the Condominium Property, common areas and facilities, other than Condominium Units and the appurtenances thereto, and to assess the same against the members and their respective Condominium Units subject to such liens; and

(20) To grant or withhold approval of any action by one or more unit owners or other persons entitled to the occupancy of any unit which would change the exterior appearance of any unit or of any other portion of the condominium, or elect or provide for the appointment of an Architectural Control Committee, the members of which must have the same qualifications as directors to grant

or withhold such approval.

L. Liability: The Directors shall not be liable to the members except for their own individual willful misconduct, bad faith or gross negligence.

## ARTICLE VI

### MEETING OF DIRECTORS

A. First Meeting: The first meeting of each Board newly elected by the members shall be held immediately upon adjournment of the annual meeting at which they were elected, provided a quorum shall be there present, or as soon thereafter as may be practicable.

B. Annual Meetings: An annual meeting of the Board of Directors may be held immediately before the annual meeting of members.

C. Special Meetings: Special meetings of the Board of Directors may be called by or at the request of the President or any Director.

D. Place of Meetings: All meetings of the Board of Directors shall be held at the principal office of the Association except that such meetings may be held at such other place, within or outside the State of North Carolina, as may be designated in a duly executed Notice of such meeting or as may be otherwise agreed upon in advance of the meeting by a majority of the Directors.

E. Notice of Meetings: The first meeting of the new Board of Directors may be held without notice. Other meetings shall be called on not less than seven days prior notice. Notice of a special meeting need not state the purpose thereof and such notice shall be directed to each Director at his residence or usual place of business by mail, cable, telegram or may be delivered personally. The presence of a Director at a meeting shall constitute Waiver of Notice of that meeting except only objecting to the transaction of any business thereat, on the ground that the meeting has not been lawfully called, and does not otherwise participate in such meeting.

F. Quorum and Manner of Acting: A majority of the number of Directors fixed by these By-Laws as the number of Directors of the Association shall constitute a quorum for the transaction of any business at any meeting of the Board of Directors. Except as otherwise expressly provided in this Article, the act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

G. Informal Action of Directors: Action taken by a majority of the Directors without a meeting shall constitute Board action if written consent to the action in question is signed by all the Directors and filed with the minutes of the proceedings of the Board, whether done before or after the action so taken.

H. Order of Business: The order of business at all meetings of the Board shall if practical be as follows:

1. Roll Call.
2. Proof of Notice of Meeting or Waiver of Notice.
3. Reading of Minutes of last meeting.
4. Consideration of communications.
5. Election of necessary Directors and Officers.
6. Reports of Officers and Employees.
7. Report of Committees.
8. Unfinished business.
9. Original resolutions and new business.
10. Adjournment.

## ARTICLE VII

### OFFICERS

A. Election: The Board of Directors shall elect the following officers of the Association: a President and a Secretary/Treasurer. The election of officers shall take place at the first meeting of the Board of Directors following the annual meeting of the members.

B. Term: Each Officer, except such officers as may be appointed in accordance with the provisions of this Article, shall hold office until the first meeting of the Board of Directors held after the annual meeting held next after his election or until his successor shall have been duly chosen and qualified or until his death or until he shall resign or shall have been disqualified or shall have been removed from office.

C. Removal and Resignation: Any Officer elected or appointed may be removed by the person or persons authorized to elect or appoint such Officer whenever in their judgment the best interests of the Association will be served thereby. Any Officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

D. Subordinate Officers and Agents: The Board of Directors, from time to time, may appoint other officers or agents, each of whom shall hold office for such period, have such authority, and perform such duties as the Board of Directors from time to time may determine. The Board of Directors may delegate to any officer or agent the power to appoint any subordinate officer or agent and to prescribe his respective authority and duties.

E. Vacancies: A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

F. Duties: The duties of the officers are as follows:

(1) President: The President shall be the principal executive officer of the Association and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Association. He shall, when present, preside at all meetings of the members and the Board of Directors; he shall sign, with the Secretary, or any other proper officer of the Association thereunto authorized by the Board of Directors any deeds of trust, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these By-Laws to some other officer or agent of the Association, or shall be required by law to be otherwise signed or executed; he shall see that all orders and resolutions of the Board are carried out; he shall have general supervision and direction of the other officers and agents of the Association and shall see that their duties are properly performed; he shall submit a report of the operations of the Association for the fiscal year to the Directors whenever called for by them, and to the members at the annual meeting, and from time to time shall report to the Board all matters within his knowledge which the interest of the Association may require to be brought to their notice; and, in general, he shall perform all duties incident to the office of President and such other duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

(2) Secretary/Treasurer: The Secretary/Treasurer shall:  
(a) keep the minutes of the meetings of the members and the Board of Directors; (b) see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law; (c) be custodian of the corporate records and seal of the Association and see that the seal of the Association is affixed to all documents the execution of which on behalf of the Association under its seal is duly authorized; (d) keep a register of the post office address of each member which shall be furnished to the Secretary by such member; (3) have general charge of the membership list of the Association; (f) keep or cause to be kept in the State of North Carolina at the Association's registered office or principal place of business a record of the Association's members, giving the names and addresses of all members and prepare and cause to be prepared voting lists prior to each meeting of members as required by law; and (g) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the President or by the Board of Directors; and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association, and shall deposit all monies and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board; shall disburse the funds of the Association as ordered by the Board, taking proper vouchers for such disbursements, and shall render to the President and Directors, at the meeting of the Board, or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Association, such records to be open to inspection by members at reasonable times; may, at the election of the Board, be required to give the Association, at the Association's cost, a bond in a sum and with one or more sureties satisfactory to the Board, for the faithful performance of the duties of his office, and the restoration to the Association, in case of his death, resignation or removal from office, of all books, papers, vouchers, money or other property of whatever kind in his possession belonging to the Association; shall, with approval of the Board, be authorized to delegate all or part of his responsibilities to competent accounting, collection or management personnel, pursuant to written definition of the responsibilities delegated to, and the condition of performance imposed upon, such personnel, but, in such event, the Treasurer shall retain supervisory responsibilities; shall co-sign all promissory notes with the President; shall prepare the annual budget and statement of income and expenditures which shall be approved by the Board before presentation to the members at the annual meeting; and shall perform all duties incident to the office of Treasurer and such other duties as may be prescribed by the Board of Directors or President.

G. Compensation: No compensation shall be paid to any officer for his services. However, any officer may be reimbursed for his actual expense in the performance of his duties, as long as such expense received approval of the Board and is within the approved budget.

H. Duties of Officers May Be Delegated: In case of the absence of any officer of the Association or for any other reason that the Board may deem sufficient, the board may delegate the powers or duties of such officer to any other officer or a Director for the time being, provided a majority of the entire Board of Directors concurs therein.

## ARTICLE VIII

### FINANCES AND FISCAL MANAGEMENT

A. Fiscal Year: The fiscal year of the Association shall be the calendar year.



**B. Assessments:**

(1) The Board shall determine from time to time the sum or sums necessary and adequate for the costs of performing the functions, objects and purposes of the Association and the common expense of the condominium and/or Association properties and shall adopt a budget for each calendar year. The budget shall constitute the basis for all regular assessments against Unit Owners, which assessments shall be due and payable periodically as determined by the Board. Common expenses shall include, but not be limited to, expenses for the operation, care, preservation, management, maintenance, repair or replacement of the common areas and facilities and Association property, costs of carrying out the purposes, powers and duties of the Association, insurance premiums and expenses, office expense, utility services, management fees, costs of maintaining, repair, replacing, operating, managing and caring for properties owned or available for use by the Association and all other rights, privileges, and other possessory or use interests in lands or facilities whether or not contiguous to the lands of the Condominium which are owned, held or available for use by the Association, and any other expenses designated as common expense from time to time by the Board of Directors of the Association. Provided, however, the regular assessment may not be increased by more than 20% of the assessment for the previous year without an affirmative vote of the membership.

(2) The Board is specifically empowered on behalf of the Association to make and collect assessments and to care for, preserve, manage, operate, maintain, repair and replace the common areas and facilities and Association property. Funds for the payment of common expenses shall be assessed against the expenses provided in the Declaration. Assessments shall be payable periodically as determined by the Board.

(3) Special assessments for common expenses not adequately funded through the regular assessments may be required by the Board and shall be levied and paid in the same manner as hereinbefore provided for regular assessments. Notwithstanding any of the above, no special assessment of any nature may be levied by the Board without the assent of two-thirds (2/3) of the Association members who are voting in person or by proxy, at a meeting duly called for the purpose of voting on any such assessment.

(4) Special assessments against any owner for any purpose authorized by the Condominium Documents, shall be levied at such time as is determined by the Board.

(5) When the Board has determined the amount of any assessment, the President or Treasurer of the Association (or the personnel to whom such authority has been delegated) shall mail or present a statement of assessment to each of the assessed owners. All assessments shall be payable to the Association, and upon request, the President or Treasurer or their designated agent shall give a receipt for each payment made.

(6) The Board may enter into a management contract with third parties to whom the Board may delegate the power to levy and collect assessments approved by the Board or required by the Condominium Documents.

(7) All assessments not paid within thirty (30) days after the same shall be due shall bear interest at the rate of eight percent (8%) per annum until paid. Further, the Association shall be entitled to collect all costs of collection including, but not limited to, a reasonable attorney's fee.

**C. Excess of Assessments:** In any year in which there is an excess of assessments received over amounts actually used or payable for the purposes described in these By-Laws and in the Declaration,, such excess shall, unless otherwise determined by the

Board of Directors of the Association, be deposited in a capital reserve account for use in replacement, repair or maintenance of the common areas and facilities of the Association or Association property.

#### ARTICLE IX

##### COMMITTEES

A. Committees: The Board may establish by resolution adopted by a majority of Directors, such committees which it deems necessary or desirable to carry out the purposes of the Association.

B. Committee Chairman and Members: The Chairman of all committees shall be appointed by and serve at the pleasure of the Board. Each Committee shall contain one or more members of the Board.

C. Committee Reports: The Chairman of each committee shall make a report to the President in writing of committee meetings and activities.

D. Authority: Unless specifically authorized in writing by the Board of Directors or the President, a committee Chairman or a committee shall have no authority to legally obligate the Association or incur any expenditure on behalf of the Association.

#### ARTICLE X

##### EASEMENTS

In the event that any Condominium Unit or any part the building or improvements as presently constructed which are intended to be a part of the project shall encroach upon any common property, common areas or facilities, or property owned, held or used by the Association, then an easement appurtenant to such Unit, building or improvement shall exist for the continuation of such encroachment for so long as such encroachment shall naturally exist.

#### ARTICLE XI

##### NOTICES

A. Definition: Whenever by statutory law, the Condominium Documents or these By-Laws, notice is required to be given to any officer, director or member, it shall not be construed to mean personal notice, but such notice may be given in writing by mail, by depositing the same in a post office or letter box in a post-paid, sealed envelope, addressed as appears on the books of the Association, unless otherwise specifically stated herein.

B. Service of Notice - Waiver: Whenever any notice is required to be given by statutory law, the Condominium Documents or these By-Laws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent to the giving of such notice.

C. Address: The address for notice to the Association shall be that of the Registered Agent for service of process of the Association.

#### ARTICLE XII

##### SUSPENSION OF RIGHTS

The Board may suspend, by a majority vote of the Board, the voting rights and right to hold office of a member during any period in which the member shall be in default in the payment of

any dues, assessments, penalties or fines, imposed by the Association. Such rights may also be suspended, after notice and hearing, for a period not to exceed sixty (60) days for a violation of the Association's Rules and Regulations, these By-Laws or the Condominium Documents.

#### ARTICLE XIII

##### BOOKS AND RECORDS

The books, records and papers of the Association shall, at any reasonable time, be subject to inspection by any member, or his agent or attorney, for any purpose.

#### ARTICLE XIV

##### RULES OF ORDER

All meetings of the members shall be governed procedurally by Roberts Rules of Order, Revised, unless suspended by two-thirds vote of the members present and entitled to vote.

#### ARTICLE XV

##### ASSETS OF THE ASSOCIATION

The Association shall hold, own, maintain, manage, control, repair, preserve, replace, care for and operate any and all real property, together with appurtenances, fixtures, and improvements thereto, all personal property, all fixtures, all rights and privileges, including all parts of the water, sewer and drainage systems, and other possessory or use interest in land, facilities, and roads and streets which may be conveyed to, or made available for use by the Association, the Declarant of the condominium facility known as J. W. BROOKS BUILDING CONDOMINIUM, or by any other person, firm, corporation or entity, or belonging to, or made available for, the Association, for the use, enjoyment, health, safety and welfare of the Owners of said Condominium Units and the residents within said Condominium facility.

All such real property together with appurtenances, fixtures and improvements thereto, personal property, fixtures, rights and privileges, including riparian rights, and other possessory or use interests in land or facilities owned by, belonging to, or made available for, the Association shall be treated, except as otherwise specifically in the By-Laws provided, as common areas and facilities of J. W. BROOKS BUILDING CONDOMINIUM project for purposed of managing, controlling, repairing, replacing, preserving, caring for, operating and otherwise dealing with for the use, health, safety, and welfare of the Owners of those Condominium Units and the residents within the Condominium facility as herein provided.

The costs and expenses of holding, owning, maintaining, managing, controlling, repairing, replacing, preserving, caring for and operating all common areas of J. W. BROOKS BUILDING CONDOMINIUM shall be "common expenses" and included in the budget for each fiscal year for the Association and all provisions of these By-Laws shall apply thereto.

#### ARTICLE XVI

##### QUALIFICATIONS FOR TAX EXEMPTION

No part of the net income, if any, or earnings of this Association shall inure to the benefit of any officer, member or director of the Association, or any other private individual either during the Association's existence or in the event of its

dissolution. In the event of the dissolution of the Association for any cause or reason, any assets remaining after the payment of creditors, debts and other costs and expenses incident to the dissolution, shall be distributed, transferred, and paid over to such qualified association or organizations having purposes similar to those set forth in Article V of the Articles of Incorporation as shall be selected by the Board of Directors of the Association.

#### ARTICLE XVII

##### CONTRACTS, LOANS, CHECKS, DRAFTS AND DEPOSITS

A. Contract: The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of or on behalf of the Association, and such authority may be general or confined to specific instances.

B. Loans: No loans shall be contracted on behalf of the Association and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

C. Checks and Drafts: All checks, drafts or other orders for the payment of money, issued in the name of the Association, shall be signed by the President or Secretary/Treasurer of the Association and in such manner as shall from time to time be determined by resolution of the Board of Directors.

D. Deposits: All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such depositories as the Board of Directors may select.

#### ARTICLE XVIII

##### DEFAULT

A. Enforcement of Lien for Assessments: In the event an owner does not pay any sums, charges, or assessments required to be paid to the Association by the due date, the Association, acting on its own behalf or through its Board, may enforce its lien for assessments, or take such other action to recover the sums, charges or assessments to which it is entitled, in accordance with the Declaration and the statutes made and provided or both.

B. Governmental Liens and Assessments: In the event that an owner fails to pay any tax or assessment lawfully assessed by any governmental subdivision within which the property is situated, by the date such tax or assessment is due, the Board may pay the same from the funds of the Association and specifically assess such owner for the amount paid.

C. Foreclosure: If the Association becomes the owner of a Unit by reason of foreclosure, it shall offer said Unit for sale and at such time as a sale is consummated, it shall deduct from the proceeds of said all sums of money due it for assessments and charges, all costs incurred in the bringing of the foreclosure suit, including reasonable attorneys fees, funds necessary to discharge any liens or mortgages of record, and any and all expenses incurred in the resale of the Unit, which shall include but not be limited to advertising expenses, real estate brokerage fees and expenses necessary for the repairing and refurbishing of the Unit in question. All monies remaining after deducting the foregoing items of expenses, costs and other deductions shall be returned to the former owner of the Unit.

D. Other Remedies: In the event of violation of the provisions of the Condominium Documents, as the same are defined

in the Declaration, for thirty (30) days after notice from the Association to the Unit Owner to correct such violation, the Association, on its own behalf or by and through its Board of Directors, may bring appropriate action to enjoin such violation or may enforce the provisions of the Condominium Documents, or may sue for damages, or take such other courses of action, or other legal remedy as it or they may deem appropriate.

E. Legal Costs: In the event any legal action is brought against an owner the Association shall be entitled to charge and collect from said owner reasonable attorney's fees, costs of collection, and court costs, if necessary.

F. Intent: Each owner, for himself, his heirs, successors and assigns, agrees to the foregoing provisions relating to default and other violations regardless of the harshness of the remedy available to the Association and regardless of the availability of the other equally adequate legal procedures. It is the intent of all owners of units to give to the Association a method and procedure which will enable it at all times to operate on a business-like basis, to collect these monies due and owing it, and to preserve each owner's right to enjoy his Unit, free from unreasonable restraint and nuisance.

#### ARTICLE XIX

##### RULES AND REGULATIONS

In addition to the other provisions of these By-Laws, any Rules and Regulations adopted by the Board, together with any subsequent changes, shall govern, to the extent not inconsistent with these By-Laws and the Declaration, the use of the Units and the common areas and facilities and the conduct of all owners, residents and guests. Such Rules and Regulations shall be subject to such changes, additions, or amendments as may be deemed appropriate by the Board.

#### ARTICLE XX

##### JOINT OWNERSHIP

Membership may be held in the name of more than one owner. In the event ownership is in more than one person, all of the joint owners shall be entitled collectively to only one vote, voice or ballot in the management of the affairs of the Association, and the vote may not be divided between plural owners. The manner of determining who shall cast such vote shall be as set forth in Article III, Section I.

#### ARTICLE XXI

##### INDEMNIFICATION

The Association may indemnify any person made a party to an action, by or in the right of the Association to procure a judgment in its favor by reason of his being or having been a director or officer of the Association, against the reasonable expenses including attorney's fees actually and necessarily incurred by him in connection with the defense or settlement of such action, or in connection with an appeal therein, except in relation to such matters as to which such director or officer is adjudged to have been guilty of gross negligence or misconduct in the performance of his duty to the Association.

#### ARTICLE XXII

##### AMENDMENTS

These By-Laws may be amended in the following manner: An amendment or amendments may be proposed by the Board of Directors

of the Association acting upon a vote of a majority of the directors or by a majority of the members of the Association entitled to vote, whether meeting as members or by instrument in writing signed by them. Upon any amendment or amendments to these By-Laws being proposed by said Board of Directors or members, such proposed amendment or amendments shall be transmitted to the President of the Association, or other officer of the Association in the absence of the President, who shall thereupon call a Special Meeting of the members of the Association for a date not sooner than twenty (20) days nor later than sixty (60) days from receipt by him of the proposed amendment or amendments. It shall be the duty of the Secretary to give each member written or printed notice of such Special Meeting, stating the time and place thereof, and reciting the proposed amendment or amendments in reasonable detailed form, which notice shall be mailed not less than ten (10) days nor more than sixty (60) days before the date set for such Special Meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States Mail addressed to the member at his Post Office address as it appears on the records of the Association, the postage thereupon prepaid. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of notice to such member. At the meeting, the amendment or amendments proposed must be approved by an affirmative vote, in person or by proxy, of a majority of the members having voting rights in order for such amendment or amendments to become adopted. Any such amendment of amendments so passed shall not become operative unless set forth in an Amended Declaration duly recorded in the Office of the Register of Deeds of New Hanover County. All owners shall be bound to abide by any such amendment or amendments when the adopted amendment or amendments are duly recorded in the form of an Amended Declaration.

Notwithstanding any other provision of this Article XXII,, no amendment or amendments may be adopted which would in any way alter, amend or effect Articles XV and X these By-Laws without unanimous approval and vote of all members entitled to vote, and no amendment or amendments shall be adopted which would operate to impair or prejudice the rights and/or liabilities of any mortgage or lender secured by any Condominium Unit.

#### ARTICLE XXIII

##### CONSTRUCTION

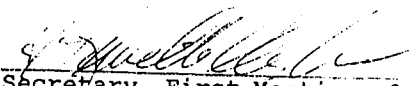
Should any of the covenants or provisions herein contained or imposed be void or be in conflict with the requirements of the North Carolina Condominium Act, Chapter 47C of the General Statutes of the State of North Carolina, or be or become unenforceable at law or in equity, the remaining provisions of this instrument shall, nevertheless, be and remain in full force and effect.

Wherever the masculine, singular form of the pronoun is used in these By-Laws, it shall be construed to mean the masculine, feminine or neuter, singular or plural, wherever the next so requires.

---

The foregoing were adopted as the By-Laws of J. W. BROOKS BUILDING UNIT OWNERS' ASSOCIATION, INC. by its First Board of Directors.

Certified to be correct, this the 19<sup>th</sup> day of March, 1997.

  
Secretary, First Meeting of the  
Board of Directors of the  
J. W. BROOKS BUILDING UNIT  
OWNERS' ASSOCIATION, INC.

FORMS.bylaws.jwb