

Inglewood Homeowners Association, Inc.

Declaration & By-Laws

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**DECLARATION
OF
COVENANTS, RESTRICTIONS, EASEMENTS AND LIENS
OF
INGLEWOOD TOWN HOMES HOMEOWNERS ASSOCIATION, INC.**

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and which shall run with, burden and bind, the Properties for and during the period of time specified hereafter and all parties having any right, title or interest in the Properties or any part thereof, their distributees, executors, administrators, successors, and assigns forever, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

1.01. "Association" shall refer to the Inglewood Town Homes Homeowners Association, Inc. and its successors and assigns.

1.02. "Properties" shall refer to the real property described in Exhibit "A" appended to this Declaration of Covenants, Restrictions, Easements and Liens ("Declaration"), and after any annexation, such additional lands as may be annexed thereto in the manner prescribed in Section 2.02 of this Declaration.

1.03. "Common Area" shall refer to all real property and facilities owned by the Association for the common use and enjoyment of the Owners.

1.04. "Lot" shall refer to any plot of land shown upon any filed Plat Map or subdivision map of the Properties, with the exception of the Common Area.

1.05. "Occupant" shall refer to any person occupying a Townhouse for a period of twelve hours or more or overnight even if for a period of less than twelve hours, and shall include without limitation, Owners, their families, guests, or other invitees and any tenant or other renter and his or her family, guests or other invitees.

1.06. "Owner" shall refer to the record owner, whether one or more persons or entities, of the title to any Lot which is part of the Properties, but excluding those having such interest merely as security for the performance of any obligation.

1.07. "Declarant" shall refer to Monroe Properties, Inc., and Lancaster Homes, Inc., their successors and assigns if such successors or assigns should acquire more than one (1) undeveloped Lot from the Declarant for the purpose of development.

1.08. "Inglewood Town Homes Homeowners Association, Inc. Restrictions" shall refer to the provisions of this Declaration, and any amendments thereto and the By-Laws of the Association recorded concurrently with this Declaration and any amendments thereto.

1.09. "Townhouse" or "dwelling unit" shall refer to the improvement constructed upon any Lot, subject to this Declaration, for use as a single or one family residence.

1.10. "Party Wall" shall refer to any wall which is common to and separates two Townhouses.

1.11 "Single or One Family Occupancy" shall refer to the residential occupancy by no more than two (2) unrelated adults or four (4) adults all related to one another as either brother, sister, stepbrother, stepsister, mother, father, husband, wife, daughter, son, stepdaughter, stepson, together with any number of their children, all of whom are related to each other as brother or sister, or stepbrother or stepsister. The foregoing shall include adopted and licensed agency approved or placed foster children.

1.12. "Note Holder" shall refer to the holder of any Note given by the Association, and all trustees or other representatives of one or more such holders.

1.13. "Note" shall refer to any note, bond, debenture or other evidence of indebtedness issued and sold by the Association.

1.14. "Commercial Vehicle" shall refer to any vehicle not intended or adapted primarily for private passenger transportation and shall include, without limitation, any pick-up truck, van, or jeep-type vehicle with lettering, markings, or insignia identifying it with a commercial enterprise or activity, or any vehicle equipped with a snowplow or other attachment adapting it to use in connection with such an enterprise or activity whether or not it is actually being so used.

1.15. "Recreational Vehicle" shall refer, without limitation, to any motor home, camper, house trailer, tent trailer, boat, dune buggy, snowmobile, or other vehicle intended, designed or adapted primarily for recreational use or purposes.

ARTICLE II

THE PROPERTY SUBJECT TO THIS DECLARATION

Annexation of Additional Lands

2.01. The Properties described in Exhibit "A" are owned by Declarant and it may, from time to time, cause additional portions of land to be subjected to the terms of this Declaration in the manner prescribed in Section 2.02 hereof. Each Owner, by the act of becoming such, shall be taken to have acknowledged and agreed (i) that the Properties described in Exhibit "A" and such property as may be annexed pursuant to Section 2.02 hereof shall be the only property subject to the Inglewood Town Homes Homeowners Association, Inc. Restrictions, (ii) that neither anything contained in this Declaration nor in any recorded or unrecorded plat, map, picture, drawing, brochure, or other representation of a scheme of development, shall be construed as subjecting, or requiring Declarant, the Association, or any successor or assignee to or of any of the aforementioned, to subject, to this Declaration, or any other declaration or agreement,

any property or land now or hereafter owned by any of them other than that described in Exhibit "A" annexed hereto, and (iii) that the only manner in which any additional land can be subjected to this Declaration shall be by and in accordance with the procedure set forth in Section 2.02 hereof. The fact that terms or provisions set forth in separate or additional declarations and agreements relating to the property or lands, other than the Properties, may be similar or identical, in whole or in part, to the Restrictions set forth in this Declaration shall not be construed to mean that it was the intent or purpose therein to subject any additional property or lands to this Declaration or any terms or provisions thereof.

2.02. Declarant, its successors and assigns, may, from time to time, annex additional phases to the development from adjoining lands under option to Declarant as described in Exhibit "B" appended to this Declaration, to the Properties, and thereby subject the same to this Declaration by the execution and filing for recordation in the Clerk's Office of Monroe County, an instrument expressly stating an intention so to annex and describing such additional lands to be so annexed. During the fifteen (15) year period commencing with the date of the recording of this Declaration, Declarant may annex such additional lands to the Properties in its absolute discretion. From and after the termination of said fifteen (15) year period, such

additional lands, or any other lands situate in the County of Monroe may be annexed to the Properties, provided that each such annexation is approved by two-thirds (2/3) of the Members of the Association entitled to vote. This Section 2.02 may not be amended during said fifteen (15) year period without the express written consent of Declarant, its successors or assigns.

2.03. Assuming all lots within said lands were to be annexed, no more than two hundred ninety-four (294) Townhouses or other single family residential houses, apartments or units may be constructed upon the Properties, as herein defined in Section 1.02, during said fifteen (15) year period described in Section 2.02 above. This Section 2.03 may not be amended without the express written consent of Declarant, its successors or assigns.

ARTICLE III

COVENANT FOR ANNUAL OR SPECIAL ASSESSMENTS

note:

Amended via MP Plan Amendment #14

3.01. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments or charges, and (ii) special assessments for capital

improvements, such assessments to be established and collected as hereinafter provided. The covenant in this Section shall not constitute a guarantee, or promise of any kind by Declarant to pay any assessment, or any other obligation of any Owner, other than Declarant. The annual and special assessments, together with late charges, interest, costs, and reasonable attorney's fees shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall be the personal obligation of the person who is the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

3.02. Purpose of Assessments. Assessments levied by the Association shall be used exclusively **(i)** first, to the payment of all principal and interest, when due, on all loans borrowed by the association to the extent required under any agreement with the Note Holder referred to in Section 3.11, and thereafter, **(ii)** to operate, maintain, repair, improve, construct, reconstruct and preserve, on a non-profit basis, the Common Area owned by the Association, exclusively for the benefit of its members, their guests, tenants and invitees; and **(iii)** to maintain, repair, reconstruct, replace and

preserve, on a non-profit basis, the residential Lots, and the Townhouses constructed thereon, for the purpose of preserving the exterior appearance and configuration of said Lots and Townhouses, including party walls, roof and roof members and underlayment, facia and exterior trim, exterior lights, gutters and down spouts, walks, driveways and parking areas, trees, shrubs and grasses, and other exterior improvements, excluding, nevertheless, any patio or deck, or patio fence, windows, storm windows, doors, storm doors, screens, screen doors, or other installations or improvements made for the exclusive use of a unit owner or owners. Except for the structural portion of the party walls and roof members, there shall be no obligation on the part of the Association to maintain, repair, reconstruct, replace or preserve any part of the interior of any Townhouse or any fixtures or mechanical (including, but not limited to, heating, chimney, lighting, plumbing, air-conditioning) systems for any Owner.

In the event that the need for maintenance or repair is caused through the willful act of the Owner, his family, tenants, guests, or invitees, and not covered or paid for by his insurance the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot Owner is subject.

3.03. Maximum Annual Assessment. Until December 31, 1986, the maximum annual assessment shall be Eight Hundred and Four Dollars (\$804.00) per Lot. Thereafter, the maximum annual assessment may be increased as follows:

(a) From and after December 31st, 1986, the maximum annual assessment may be increased without a vote of the membership in any fiscal year by the same percentage as the percentage increase, if any, in the Consumer Price Index, published by the Bureau of Labor Statistics, United States Department of Labor, for the last calendar year.

(b) From and after December 31st, 1986, the maximum annual assessment per Lot may be increased by a greater amount than permitted by the Consumer Price Index formula by a vote of two-thirds (2/3) of the Members, present in person or by proxy, at a meeting duly called for such purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

3.04. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a

capital improvement, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the Members, present in person or by proxy, at a meeting duly called for such purpose.

3.05. Notice and Quorum for Any Action Authorized Under Section 3.03 or 3.04. Written notice of any meeting called for the purpose of taking any action authorized under Section 3.03 or 3.04 shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. The presence of Members, in person or by proxy, entitled to cast two-thirds (2/3) of all the votes of the membership shall constitute a quorum.

3.06. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected in monthly installments.

3.07. Date of Commencement of Annual Assessments and Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the recording of this Declaration, and shall be prorated according to the number of months remaining in the fiscal year.

The annual assessments for the first fiscal year shall not exceed the amount set forth in Section 3.03 above, but may be fixed at a lower amount and adjusted upward or downward from time to time, as

frequently as, but no more frequently than, monthly, by the Declarant based upon actual operating expenses for the preceding month or other prior equivalent period, subject always to said maximum, so that the aggregate of said monthly assessments shall not exceed the maximum for the first fiscal year. In so fixing the monthly assessments from time to time, Declarant may also take into account in its estimate of operating expenses for the period to which such assessments are to be applied any deficit from previous periods and any anticipated expense not previously incurred. The Board of Directors shall fix the amount of subsequent annual assessments for each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors, and unless otherwise provided, the Association shall collect each month from the Owner of each Lot one-twelfth (1/12) of the annual assessment for such Lot. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

3.08. Effect of Nonpayment of Assessments and Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within fifteen (15) days after the due date, it shall bear a late charge as provided in the by-laws of the Association, and if not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate specified in the Association By-Laws but in no event in excess of the maximum rate allowed by law, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot, and late charges, interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. Each such Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Inglewood Town Homes Homeowners Association, Inc., or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of liens against real property, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage foreclosure on real property and such Owner hereby expressly grants to the Association a power of sale in connection with the foreclosure of said lien. The lien provided for in this Section shall

be in favor of the Association and shall be for the benefit of all other Lot Owners. The Association, acting on behalf of the Lot Owners shall have the power to bid for the interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same; and to subrogate so much of its right to such liens as may be necessary or expedient to an insurance company continuing to give total coverage notwithstanding nonpayment of such defaulting Owner's portion of the premium for fire and other hazard insurance. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area, or abandonment of his Lot, or by renunciation of membership in the Association. An Owner may give a deed, in lieu of foreclosure, to the Association, nevertheless, subject to acceptance thereof by the Association, in the discretion of the Directors.

3.09. Subordination of the Association Lien to First Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage given to any bank, savings bank, savings and loan association, pension fund, or other institutional lender or Sponsor. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of any first mortgage, given as above provided, shall extinguish the lien of such assessments as to payments

which became due prior to the foreclosure sale and transfer. No foreclosure sale or transfer shall relieve such Lots from liability for any assessments thereafter becoming due or from the lien thereof.

3.10. Exempt Property. All properties dedicated to, and accepted by, a local municipality or authority, and the Common Area, shall be exempt from the assessments created herein. However, no land or improvements devoted to single or one family occupancy use shall be exempt from said assessments.

3.11. Loans to the Association. The Association's Board of Directors, within the limitations imposed by Section 3.03, may borrow monies from time to time, so long as the repayment of the principal borrowed and the interest thereon shall be accomplished within the term of five (5) years. Loans that shall require repayment over a longer term shall first be approved by two-thirds of the votes of the Members present in person or by proxy at a meeting duly called for this purpose.

In order to secure the repayment of any and all sums borrowed by it from time to time, the Association is hereby granted the right and power (i) to assign and pledge revenues received, and to be received by it under any provisions of this Declaration, and (ii) to enter into agreement with Note Holders with respect to the collection and disbursement of funds, and (iii) to apply funds

received by the Association first to the payment of Principal and interest, when due, on such loans; and (iv) to establish such collection, payment and lien enforcement procedures as may be required by Note Holders.

3.12. Reserves and Surplus. The Association's Board may establish, from time to time, reserves for such lawful purposes as in its sole discretion it may determine necessary to be desirable for the greater financial security of the Association and the effectuation of its purposes. The Association shall not be obligated to spend, in any fiscal year, all the sums collected in such year, and may carry forward as surplus any balances remaining; nor shall the Association be obligated to apply any such surplus to the reduction of the amount of the annual assessment in the succeeding year, but may carry forward the same from year to year.

3.13. Contractual Authority. The Association shall be entitled to contract with any corporation, firm or other entity for the performance of the various duties imposed on the Association hereunder and the performance by any such entity shall be deemed the performance of the Association hereunder.

ARTICLE IV

INSURANCE

4.01. Physical Damage Insurance. The Declarant, for each Lot owned within the Properties, hereby irrevocably nominates, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to irrevocably nominate, the Association as Trustee with authority to obtain and maintain fire insurance and extended coverage for all townhouses, insuring the building and fixtures, in an amount sufficient to cover the full replacement cost thereof. Such insurance, to the extent available, may include coverage against water damage, vandalism and malicious mischief. Such policies of physical damage insurance shall be written in the name of the Association, as Trustee for each Lot Owner, and shall contain waivers of subrogation and of any reduction of pro rata liability of the insurer as a result of any insurance carried by any Lot Owner or of the invalidity arising from any acts of the insureds or any Lot Owner, and shall provide that such policies may not be cancelled or substantially modified without at least ten (10) days prior written notice to all of the insureds, including any mortgagee of any Lot.

Each policy shall contain a New York standard mortgagee clause in favor of any first mortgagee, only, of any Lot, which shall provide that the loss, if any, thereunder shall be payable to such first mortgagee as its interest may appear, subject, however, to the loss payment provisions in favor of the Association hereinafter set forth. All such policies shall provide that adjustment of loss shall be made by the Association with the approval of the Lot Owner, and that the net proceeds thereof shall be payable to the Association.

The premiums for insurance obtained by the Association shall be part of the common expenses under annual assessment.

Lot Owners shall not be prohibited from carrying additional insurance for their own benefit, provided that such policies contain waiver of subrogation and further provided that the liability of the carrier issuing insurance procured by the Association shall not be affected or diminished by reason of any such additional insurance carried by any Lot Owner.

In the event of damage to or destruction of any townhouse, as a result of fire or other casualty, the Owner, with the concurrence of his first mortgagee, if any, upon receipt of the insurance proceeds by the Association, shall contract to rebuild or repair such damaged or destroyed Townhouse.

Upon receipt of the insurance proceeds, and prior to making any other disbursement, the Association shall first pay the expenses incurred, if any, including the reasonable charges for the services of any public adjuster and of any attorney employed by the Association to secure payment of such proceeds.

No disbursement for reconstruction or repair shall be made, nevertheless, unless the Association is first directed by a written certificate of the Owner, or his designated architect or engineer, stating that the sums to be paid are due and properly payable for such reconstruction or repair, and stating the following information as to each disbursement:

- (1) Name and mailing address of payee;
- (2) Amount of payment;
- (3) Purpose of payment.

In the absence or refusal of the first mortgagee and/or the Owner to proceed upon thirty (30) days written notice and demand, such portion of the proceeds as may be necessary to discharge the interest of the first mortgagee, if any, shall be paid over by the Association to such mortgagee, upon the tender by said mortgagee of a duly executed discharge of the mortgage in recordable form.

The Association is hereby irrevocably authorized by the Owner to use the balance of insurance proceeds, remaining after discharge of any first mortgagee interest, to reconstruct the "exterior portion" of such Townhouse so damaged or destroyed, in conformance with the original plans and specifications of such Townhouse, which "exterior portion" shall include those items defined in Section 3.02 (iii) hereof.

No disbursement for reconstruction and repair of the "exterior portion" of such Townhouse shall be made unless the Association is first directed by a written certificate of an architect or engineer, employed by the Association to supervise such reconstruction or repair, stating that the sums to be paid are due and properly payable for such reconstruction or repair of the "exterior portion" and stating the following information as to each disbursement:

- (1) Name and mailing address of payee;
- (2) Amount of payment;
- (3) Purpose of payment.

In the event the cost to reconstruct the "exterior portion" of such Townhouse shall exceed the balance of insurance proceeds after the payment of expenses and the discharge of the first mortgagee's interest, the cost to reconstruct the "exterior portion" in excess of

the balance shall be an expense of the specific Owner of such Townhouse and shall be paid within thirty (30) days after notice and demand therefor. In default of payment thereof, the excess cost, together with interest, costs and reasonable attorneys' fees, shall become a charge on the land and shall become a continuing lien upon the lot against which such additional cost was incurred. Such lien may be enforced in the same manner as the lien for annual or special assessment as under Article III hereof provided.

Prior to the reconstruction or rebuilding of the "exterior portion" of such destroyed Townhouse, the Association may, but shall not be required to, employ an architect or engineer to supervise the same and based upon the original plans and specifications for such townhouse, advertise for sealed bids and may thereafter negotiate with any contractor for the reconstruction or rebuilding of such Townhouse's "exterior portion."

In the event the cost of reconstruction and repair of the "exterior portion" of such Townhouse, including the reasonable cost for services of any architect, engineer or attorney employed by the Association to pursue the reconstruction and repair of the "exterior portion" of such townhouse, is less than the insurance proceeds remaining in the Association's hands, then, and in such event, the proceeds remaining, after payment of costs, shall be paid to the Owner

upon the tender to the Association by such Owner of a duly executed release of liability and accountability for the use of such insurance proceeds.

All insurance proceeds paid on any loss claim shall be first deposited in a bank or other financial institution, in an interest bearing account insured by a Federal governmental agency, with provision that such proceeds, or any part thereof may only be withdrawn upon the signatures of at least two members of the Board of Directors or their designee.

Notwithstanding the foregoing provisions of this Section 4.01, it is further provided that the requirement for the maintenance of insurance on a Townhouse shall not apply to any Townhouse acquired by the Veteran's Administration or Federal Housing Administration under a mortgage foreclosure during the period of ownership by either of said Veteran's Administration or Federal Housing Administration.

The initial amount of physical damage insurance allocated to particular townhouse shall be at least in such amount as may be required by any first mortgagee of such townhouse, but in no event in an amount less than the amount of the Purchase Price, less the sum of Two Thousand Dollars (\$2,000.00). Any Lot Owner may, upon written request, direct the Association to increase insurance coverage on his particular Townhouse to such amount as the carrier selected by the

Association is willing to underwrite. The amount of such insurance coverage shall be increased annually to cover the increase, if any, in the replacement cost of each Townhouse.

Only the Association, as Trustee, the Lot Owner, and his first mortgagee, shall be named insureds. Assignment of the policy or of the proceeds of the policy, in the event of loss, shall be prohibited.

The Association may consult with, and employ, an attorney of its choice with respect to any question relating to its duties or responsibilities hereunder and shall not be liable for any action taken or omitted by it in good faith or on advice of counsel. The Association shall be reimbursed for all expenses incurred by it in connection with its duties under this Article provided as a charge against the insurance proceeds, except for such expenses incurred as a result of bad faith or willful misconduct.

4.02. Public Liability Insurance. The Association shall obtain broad form public liability insurance covering the Common Area and all of the Lots, excluding, nevertheless, liability coverage for the interior of any townhouse, in a single limit amount of not less than One Million Dollars (\$1,000,000.00) covering claims for bodily injury or death and Two Hundred Fifty Thousand Dollars (\$250,000.00) covering all claims for property damage arising out of any one

occurrence. Premiums for public liability insurance shall be part of the common expense payable out of annual assessments provided under Article III hereof.

The Association may secure such other forms of insurance coverage as its Board of Directors may, from time to time, direct, to be paid for as a common expense.

ARTICLE V

PROPERTY RIGHTS

5.01. Every Member shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the transfer of title to or other interests in any Lot. All such rights and easements are subject, nevertheless, to the rights of the Association:

- (a)** To limit the number of guests or invitees of Members in/or upon the Common Area or any facilities located thereon; and
- (b)** To charge reasonable admission and other fees for the use of any recreational facilities situated upon the Common Area; and
- (c)** To borrow money for the purpose of improving the Common Area and in aid thereof to mortgage the same; and

(d) To suspend the right to use and enjoy any recreational facilities by a Member for any period during which any dues or any assessment remain unpaid or during which a violation of this Declaration or the By-Laws exists; and for a period not to exceed thirty (30) days for any infraction of rules and regulations adopted and promulgated by the Association; and

(e) To grant easements or rights of way to the Town of Ogden or any of its districts or to any public utility corporation or public or municipal agency.

ARTICLE VI

MEMBERSHIP - VOTING RIGHTS

6.01. The Association shall have as Members only Owners of Lots. All Owners, upon becoming such, shall be deemed automatically to have become Members and there shall be no other qualification for membership. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of any obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

6.02. Declarant, as an Owner of one or more lots, shall be a Member of the Association.

6.03. All Members, so long as the same shall qualify under this Article VI, and under the By-Laws of the Association, shall be entitled to vote on each matter submitted to a vote at a meeting of Members, subject to the following exceptions and conditions:

(a) As long as Declarant owns or holds twenty-nine (29) or more Lots, or until two (2) years from the date Declarant transfers the first Lot to an Owner, whichever period expires first, Declarant shall be entitled to elect a majority of the directors of the Association.

(b) When any Lot is owned by more than one person or entity, as tenants by the entirety, or in joint tenancy, or tenancy in common, or any other manner of joint or common ownership or interest, such persons or entities, as Owners of a single Lot shall collectively constitute a member of the Association and be entitled to cast only one vote. If such person or entities cannot jointly agree as to how such vote should be cast, no vote shall be allowed with respect to such Member.

(c) In no event, after two years from the date of recording this Declaration, may Declarant elect a majority of the Board of Directors of the Association; nevertheless, so long as Declarant shall own two or more Lots within the period of ten (10) years from the date of recording this Declaration, then and in such event, it shall have the right to designate one member of the Board of Directors.

ARTICLE VII

EASEMENTS

7.01. Each Townhouse Lot and the Common Area shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed, which easement shall continue as long as said encroachments exist. In the event any building containing two or more townhouses is partially or totally destroyed and then rebuilt, the Owners of the Townhouses so affected, agree that minor encroachments of parts of the adjacent Townhouse Units or Common Area due to construction shall be permitted and that a valid easement for said encroachments and the maintenance thereof shall exist.

7.02. There is hereby created a blanket easement upon, across, over and under all of said Properties for ingress, egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water supply system, sewers or sewage disposal systems, gas, telephone and electricity, and a master television antenna system. By virtue of this easement, it shall be expressly permissible for the Declarant or the Association or utility or other entity responsible for the providing of electrical, telephone, water, sewer or sewage disposal system, gas, or master television antenna, service to erect and maintain the necessary

underground pipes, conduits and other necessary equipment at or below grade on said Properties and to affix and maintain electrical, master television antenna and telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of said Townhouses. An easement is further granted to all police, fire protection, ambulance and all similar persons to enter upon the Lots and Common Area in the performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees, and to any management company selected by the Association to enter in or to cross over the Common Area, the Lots, and to enter any townhouse, during reasonable hours and upon request, when occupied - except in an emergency, to inspect and to perform the duties of maintenance and repair of the townhouses or Common Area as provided for herein. Notwithstanding anything to the contrary contained in this Paragraph, no sewers or sewage disposal system components, electrical lines, water lines, wells and water pumping and pressure system components or other utilities may be installed or relocated on said Properties except as initially programmed and approved by the Declarant or thereafter approved by Declarant or the Association's Board of Directors. Should any utility furnishing a service covered by the general easement herein provided request a specific easement in the form of a separate recordable document, Declarant shall have the

right to grant such easement on said Properties without conflicting with the terms hereof. The easements provided for in this Article VII shall in no way affect any other recorded easement on said premises.

7.03. Easements and rights-of-way are hereby expressly reserved to Declarant, its successors and assigns, in, on, over, and under the "easement area," as hereinafter defined, of each lot submitted to this Declaration for the following purposes:

(a) For the erection, installation, construction and maintenance of (i) wires, lines and conduits, and the necessary or proper attachments in connection with the transmission of electricity, telephone, community antenna, television cables and other utilities and other similar facilities, and (ii) storm-water drains, land drains, public and private sewers, pipe lines for supplying gas, water and heat, and for any other public or quasi-public utility facility, service or function, whether above ground or underground; and

(b) For slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity which might interfere with the slope ratios approved by Declarant, its successors and assigns, or which might create erosion or sliding problems, or change, obstruct or retard drainage flow.

Declarant and its respective agents, successors and assigns, shall have the right to enter upon all parts of the easement area of each Lot for any of the purposes for which said easement and rights-of-way are reserved.

Declarant shall also have the right, at the time of, or after grading any street, or any part thereof, to enter upon any abutting Townhouse Lot and grade the portion of such Lot adjacent to such street to a slope of 2 to 1, but there shall be no obligation on Declarant to do such grading or to maintain the slope.

7.04. The term "easement area," as used herein, shall mean and refer to (i) those areas on each said subdivision lot with respect to which easements are shown on the recorded subdivision plat relating thereto, or (ii) if no easements are shown on any such plat, to all of the land within the lot lines of each said subdivision lot at the front and rear of the lot which is not covered by any portion of the Townhouse or appurtenant structure.

ARTICLE VIII

PARTY WALLS

8.01. Each wall which is built as a part of the original construction of the Townhouses upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and the general rules of law regarding party walls and liability for property damage due to willful acts or omissions shall apply thereto.

8.02. The cost of reasonable repair and maintenance of the structural portion of a party wall shall be a common expense to be paid for out of general or special assessments.

ARTICLE IX

GENERAL COVENANTS - USE RESTRICTIONS

9.01. Each Lot, improved with a Townhouse, shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions hereof, and shall be used for single family residential purposes only.

9.02. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Declarant or the builder of the Townhouses to maintain during the period of construction and sale of said Townhouses, upon such portion of the premises as Declarant deems necessary, such facilities as in the sole opinion of Declarant may be reasonably required, convenient, or incidental to the construction and sale of said Townhouses, including, but without limitation, a business office, storage area, construction yards, signs, model units and sales office.

9.03. No planting or gardening shall be done, except within individual enclosed patio areas, and no fences, hedges, or walls shall be erected or maintained upon said Properties except as are installed

in accordance with the initial construction of the buildings located thereon or as approved by the Association's Board of Directors or their designated representative. No trimming, cutting, watering, fertilizing, or modifying of plantings, trees, foliage, or shrubs planted around the dwellings or elsewhere upon the Properties shall be done by anyone other than employees of the Managing Agent or of the Association, or persons duly authorized by the Board of Directors to perform such work. Except for the right of ingress and egress, the Owners of Lots are hereby prohibited and restricted from using any of said Properties outside the exterior building lines, and front and rear yard areas, except as may be allowed by this Declaration or by the Association's Board of Directors. It is expressly acknowledged and agreed by all parties concerned that this Paragraph is for the mutual benefit of all Owners of Lots in Inglewood Town Homes Homeowners Association, Inc.

9.04. Modification of any kind to the exterior of the Townhouse, either to the structure or the appearance thereof, including, but not limited to, color of exterior, awnings, lights, mechanical devices, T. V. antennas, flags, storage structures or bunting, shall not be made without the express written consent of the Association's Board of Directors. Provided, however, the Association may install on the Properties a single master television antenna, the

design specifications and location of which shall be subject to the prior written approval of Declarant, said approval not to be unreasonably withheld.

9.05. Each Owner shall maintain, clean and keep free from unsightly objects, his driveway, entry, and patio area.

9.06. There shall be no organized sports activities, picnicking or fires except in areas designated by the Association's Board of Directors.

9.07. No animals or reptiles of any kind shall be raised, bred, or kept in any Townhouse or its front or rear yards or in the Common area, except that one dog (as hereafter provided), cat, or other household domesticated pet may be kept in a Townhouse provided it is not kept, bred, or maintained for any commercial purpose, and further provided that any such pet causing or creating a nuisance or disturbance or noise which, in the sole opinion of a majority of the Directors of the Association constitutes an unreasonable interference with the use or enjoyment of any other unit, or of the common areas, shall be permanently removed from the Properties upon three (3) days written notice to the Owner or Occupant harboring such pet. No pet may be kept in a pen or enclosure outside of a Townhouse. The Board of Directors shall have the power to enact special rules pertaining to dogs, including, if it so elects, a requirement that a permit be

issued by the board to any Owner or Occupant desiring to keep a dog in his Townhouse and/or that a security deposit shall be paid to and retained by the Association as long as the dog is kept in the Townhouse. If the Owner or Occupant violates any provision of this paragraph 9.07, or if the dog causes any damage to the Common Areas or to any Townhouse exterior or the foundation plantings, or the owner of the dog fails to pick up and properly dispose of any dog waste, the Directors, in their sole and absolute discretion may retain all or any portion of any such security deposit as a forfeiture for such violation or as compensation in whole or in part for such damage, but in no event shall such retention be deemed to be liquidated damages. All dogs must be kept on a leash at all times when outside of a Townhouse, and any violation of this provision shall result in immediate and automatic forfeiture of any security deposit for such animal. Any dog found on the Properties which is not on a leash may be summarily removed by the Association or the Managing Agent, or their employees, and delivered to the custody of any local or municipal authority with power to impound the same, without any liability on the part of the Association, its directors, agents, or employees for such removal. Any pet kept in violation of these restrictions shall be permanently removed from the Properties.

9.08. The maximum speed limit for all vehicles within the Properties shall be fifteen (15) MPH.

9.09. No commercial vehicles shall be parked or stored on any portion of the Properties, except for vehicles temporarily on the premises for the purpose of making deliveries or providing services to the dwelling units or in connection with the maintenance of the common areas.

9.10. No abandoned or unregistered vehicle shall be parked, left, or stored upon the Properties or any portion thereof.

9.11. No recreational vehicle shall be parked or stored on any portion of the Properties, except for durations of no more than four (4) hours and then not more than once in any twenty-four (24) hour period, the intention being that such vehicles may be brought onto the properties only temporarily for purposes such as loading or unloading but not for overnight parking or for parking or storage for longer periods.

9.12 No advertising signs, except one "For Rent" or "For Sale" sign not to exceed six square feet in size, shall be placed or permitted to remain on any dwelling unit or lot or in the common areas. Provided, however, Declarant shall have the right during the construction and sales period to place such signs as its officers or directors may elect in connection with and for the purposes of

offering the dwelling units to the public for sale or for rent, and further provided that Declarant shall have the right to design, fabricate and install one or more permanent signs in locations of its choice identifying the Inglewood Town Homes development. Maintenance of the latter signs shall be the responsibility and at the expense of the Association excepting only repairs or replacements thereof during the first year after erection of such signs necessitated by reason of defective materials or workmanship in the original installation.

9.13. All trash, rubbish and refuse shall be placed only in proper receptacles therefor to be maintained by the Association.

9.14. No occupant of a dwelling unit shall create or make any noise or disturbance which shall unreasonably interfere with the use and enjoyment of any other unit or so as to constitute a nuisance. No occupant or other person shall play any musical instrument or sound reproduction equipment either inside a dwelling unit or elsewhere on the properties **between the hours of 11 p.m. and 8 a.m.**

9.15. The Board of Directors may, from time to time, adopt additional rules and regulations governing the use of the Common Area and the conduct of all residents and guests on the Properties. No action shall be taken by the Association or its Board which in any manner would discriminate against any Owner or Owners in favor of the other Owners.

ARTICLE X

ZONING AND SPECIFIC RESTRICTIONS

10.01. This Declaration shall not be taken as permitting any action or thing prohibited by the applicable zoning laws, or the laws, rules, or regulations of any governmental authority, or by specific restrictions of record. In the event of any conflict, the most restrictive provision of such laws, rules, regulations, restrictions of record, or this Declaration shall be taken to govern and control.

ARTICLE XI

DURATION AND AMENDMENT

11.01. The Restrictions contained in this Declaration shall run with and bind the Properties, shall inure to the benefit of and shall be enforceable by Declarant, the Association and the Owner of any Lot included in the Properties, their respective legal representatives, distributees, successors and assigns until the 31st day of December in the year 2000, after which time said Restrictions shall be automatically extended for successive periods of ten (10) years. This Declaration may not be amended in any respect (except with regard to the annexation of additional properties as set forth in

Section 2.02 hereof) except by a vote of not less than sixty-six percent (66%) of the votes held by Lot Owners, present in person or by proxy at a meeting duly called for such purpose at which a quorum is present and acting throughout. For purposes of this Section only, such a quorum shall be eighty percent (80%) of the votes entitled to be cast by members of the Association as defined in Article VI hereof. No amendment shall be effective until recorded in the form of a duly executed Certificate of Resolutions in the Office of the Clerk of Monroe County, New York, or in such other place of recording as may be appropriate at the time of the execution of such instrument. After December 31, 2000, this Declaration may be amended or terminated in its entirety at a meeting duly called for such purpose by a vote of not less than a majority of all of the votes of the Lot Owners as defined in Article VI hereof. Such amendment or termination shall not become effective until recorded in the form of a duly executed certificate of resolutions in the Clerk's Office of Monroe County, New York, or in such other place of recording as may be appropriate at the time of the execution of such instrument.

ARTICLE XII

GENERAL

12.01. Violation or breach of any Restriction herein contained shall give Declarant, or the Association, their respective legal representatives, distributees, successors and assigns, in addition to all other remedies, the right to enter the land upon or as to which such violations or breach exist and summarily to abate and remove, at the expense of the Owner thereof, any erection, thing or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof; and the said parties shall not thereby be deemed guilty of any manner of trespass for such entry, abatement or removal. Nothing herein contained shall be deemed to affect or limit the rights of the Owners of the Lots within the Properties to enforce these Restrictions by appropriate judicial proceeding.

12.02. The failure of Declarant, the Association, or the Owner, of any Lot included in the Properties, their respective legal representatives, distributees, successors and assigns, to enforce any Restriction herein contained shall, in no event, be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such violation or breach occurring prior or subsequent thereto.

12.03. No Restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

12.04. The determination by a court that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof.

12.05. Damages shall not be deemed adequate compensation for any breach or violation of any provision hereof, but any person or entity entitled to enforce any provision hereof shall be entitled to relief by way of injunction as well as any other available relief either at law or in equity.

12.06. Any party to a proceeding who succeeds in enforcing a Restriction or enjoining the violation of a Restriction against a Lot Owner may be awarded a reasonable attorney's fee against such Lot Owner.

12.07. The Association's Board of Directors where specifically authorized herein to act, shall have the right to construe and interpret the provisions of this Declaration, and of the By-Laws and in the absence of an adjudication by a court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all persons or property benefited or bound by such provisions. Any conflict between any construction or

interpretation of the Association's Board or any other person or entity to enforce the provisions hereof and of the By-Laws shall be resolved in favor of the construction or interpretation of the Association's Board.

The Association's Board, to the extent specifically provided herein, may adopt and promulgate reasonable rules and regulations regarding the administration, interpretation and enforcement of the provisions of this Declaration and of the By-Laws. In so adopting and promulgating such rules and regulations, and in making any finding, determination, ruling or order or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, the Association's Board shall take into consideration the best interests of the Owners and of the Properties to the end that the Properties shall be preserved and maintained as a high quality community.

In granting any permit, authorization, or approval as herein defined, the Association's Board may impose any conditions or limitations thereon as it shall deem advisable under the circumstances in each case in light of the considerations set forth in the immediately preceding Paragraph hereof.

12.08. The headings of the Articles or any Section herein are for convenience only and shall not affect the meanings or interpretation of the contents thereof.

12.09. No violation of any of these Restrictions shall defeat or render invalid the lien of any first mortgage or building loan made in good faith and for value upon any portion of the Properties; provided, however, that any mortgagee in actual possession, or any purchaser at any mortgagee's foreclosure sale shall be bound and subject to these Restrictions as fully as any other Owner of any portion of the Properties.

12.10. Each grantee accepting deed, lease or other instrument conveying any interest in any lot, whether or not the same incorporates or refers to this Declaration, covenants for himself, his distributees, successors and assigns to observe, perform and be bound by this Declaration and the By-Laws and to incorporate the same by reference in any deed or other conveyance of all or any portion of his interest in any real property subject hereto.

(EXHIBITS TO DECLARATION)

EXHIBIT A

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Ogden, County of Monroe and State of New York, being a part of Town Lot Number 100, Township 3, Range 1, more particularly bounded and described as follows: **commencing at a point** in the centerline of Manitou Road (also being the Townline between the Town of Ogden on the west and the Town of Gates on the East) where the same is intersected by the north line of said Town Lot 100 (being also the south line of Town Lot 87); **thence, (1)** north 89 degrees, 40 minutes, 03 seconds west, a distance of 33 feet to the west right-of-way line of said Manitou Road; **thence, (2)** continuing on the same course and on said north line of Town Lot 100, a distance of 713 feet to a point; **thence, (3)** south 09 degrees, 30 minutes, 38 seconds, east, a distance of 377.09 feet, to a point; **thence, (4)** northeasterly on a curve to the right with a delta angle of 9 degrees, 58 minutes, 26 seconds, and a radius of 305 feet, a distance of 53.09 feet to a point; **thence, (5)** south 0 degrees, 27 minutes, 48 seconds, west, a distance of 70 feet to a point; **thence, (6)** southeasterly on a curve to the right with a delta angle of 27 degrees, 53 minutes, 07 seconds, and a radius of 235 feet, a distance of 114.37 feet to a point; **thence, (7)** south 0 degrees, 04 minutes, 55 seconds west, a distance of 244.74 feet to a point; **thence, (8)** south 89 degrees, 55 minutes, 05 seconds, east, a distance of 84.68 feet to a point; **thence, (9)** south 0 degrees, 04 minutes, 55 seconds, west, a distance of 10 feet to a point; **thence, (10)** south 89 degrees, 55 minutes, 05 seconds, east, a distance of 137 feet to a point; **thence, (11)** north 0 degrees, 04 minutes, 55 seconds, east, a distance of 170 feet to a point; **thence, (12)** north 88 degrees, 20 minutes, 55 seconds, east, a distance of 300 feet to the centerline of Manitou Road, being also the Townline between the Towns of Gates and Ogden; **thence, (13)** north 0 degrees 04 minutes, 55 seconds, east, along said centerline of Manitou Road and said Townline, a distance of 537.97 feet; **to the point and place of beginning**, containing 7.75 acres, more or less, exclusive of the right-of-way of Manitou Road and of proposed Jordache Lane as shown on a map of Phase I Inglewood Townhomes made by LaDieu-Eshbaugh, Surveyors, Engineers, and Land Planners, dated April 16, 1981, and filed in the Monroe County Clerk's Office on, 1984, in Liber _____ of Maps at page _____.

EXHIBIT B

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Ogden, County of Monroe and State of New York, being a part of Town Lot Number 100, Township 3, Range 1, more particularly bounded and described as follows: **commencing at a point** in the centerline of Manitou Road (being also the division line between the Towns of Ogden and Gates), where the same is intersected by the north line of said Town Lot Number 100; **thence, (1)** north 89 degrees, 40 minutes, 03 seconds west along said north line of Town Lot Number 100, a distance of 1,387.15 feet to a point; **thence, (2)** south 0 degrees, 08 minutes, 15 seconds west, a distance of 1,321.78 feet to a point; **thence, (3)** due east a distance of 483.60 feet to a point; **thence, (4)** north 1 degree, 18 minutes, 00 seconds east, a distance of 0.89 feet to a point; **thence, (5)** due east a distance of 140 feet to a point; **thence, (6)** north 1 degree, 18 minutes, 00 seconds east, a distance of 44.75 feet to a point; **thence, (7)** north 89 degrees 43 minutes, 00 seconds east, a distance of 202.43 feet to a point; **thence, (8)** south 0 degrees, 52 minutes 19 seconds west, a distance of 381.68 feet to the centerline of Lyell Road, being also the south line of Town Lot Number 100; **thence, (9)** due east along said centerline of Lyell Road, a distance of 104.30 feet to a point; **thence, (10)** north 0 degrees, 11 minutes, 21 seconds west, a distance of 382.12 feet to a point; **thence, (11)** north 89 degrees, 43 minutes, 00 seconds east, a distance of 104.56 feet to a point; **thence, (12)** south 0 degrees, 11 minutes, 15 seconds east, a distance of 21.24 feet to a point; **thence, (13)** due east, a distance of 361.40 feet to a point in the centerline of Manitou Road, being also the division line between the Towns of Ogden and Gates; **thence, (14)** due north along said centerline, a distance of 166.55 feet to a point; **thence, (15)** south 88 degrees, 16 minutes, 00 seconds west, a distance of 300 feet to a point; **thence, (16)** due north a distance of 585 feet to a point; **thence, (17)** north 88 degrees, 16 minutes, 00 seconds east, a distance of 300 feet to a point in the centerline of Manitou Road, being also the division line between the Towns of Ogden and Gates; **thence, (18)** north 0 degrees, 04 minutes 55 seconds east along said centerline of Manitou Road and said Townline, a distance of 537.97 feet, **to the point and place of beginning**, comprising in all an area of 37.68 acres, more or less, according to a preliminary plat plan drawn by LaDieu-Eshbaugh, dated April 23, 1980.

EXCEPTING AND RESERVING, however, the premises described above in Exhibit "A", being designated and known as Phase I of Inglewood Townhomes as shown on a map of the same made by LaDieu-Eshbaugh and dated April 16, 1981.

**CERTIFICATE OF INCORPORATION
of
INGLEWOOD TOWN HOMES HOMEOWNERS' ASSOCIATION, INC.**

Under Section 402 of the Not-for-Profit Corporation Law

The undersigned, for the purpose of forming a corporation pursuant to the Not-for-Profit Law of the State of New York, hereby certifies:

11. The name of the corporation is Inglewood Town Homes Homeowners' Association, Inc.

12. The corporation has not been formed for any pecuniary profit or financial gain, and no part of the assets, income, or profit of the corporation is distributable to, or inures to the benefit of, its members, directors, or officers, except to the extent permitted under the Not-for-Profit Corporation Law.

13. The purposes for which the corporation is to be formed are:

(a) To provide maintenance, preservation and architectural control of the residence, lots and common areas within that certain tract of property located in the Town of Ogden, Monroe County, New York, and known as the Inglewood Town Homes Development.

(b) To exercise all of the powers and privileges and to perform all of the duties and obligations of the corporation as set forth in that certain Declaration of Covenants, Restrictions, Easements and Liens (hereinafter called the "Declaration") applicable to said property and to be recorded in the Monroe County Clerk's Office, and as the same may be amended from time to time as therein provided.

(c) To fix, levy, collect and enforce payments by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses incident to the business of the corporation, including all licenses, taxes or charges levied or imposed against the property of the corporation.

(d) To do any other act or thing incidental to or connected with the foregoing purposes or an advancement thereof, but not for the pecuniary profit or financial gain of its members, directors, or officers, except as permitted under Article V of the Not-for-Profit Corporation Law.

(e) To acquire by gift, purchase or otherwise, own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose

of, real or personal property in connection with the affairs of the corporation.

(f) To borrow money, mortgage, pledge, deed in trust or hypothecate, any or all of its real or personal property as security for money borrowed or debts incurred.

(g) To do any and all lawful acts and things which may be necessary, desirable, useful, suitable or proper for the furtherance, accomplishment or attainment of, any or all the purposes or powers of the corporation, either alone or in cooperation with other persons, entities, or other organizations, including, without limitation, all powers enumerated in Section 202 of the Not-for-Profit Corporation Law, and any amendments thereto.

14. The corporation is a corporation as defined in sub-paragraph (A)(5) of Section 102 of the Not-for-Profit Corporation Law and a Type A Corporation.

15. The town and county in which the office is to be located are the Town of Ogden, County of Monroe.

16. The territory in which the corporation's activities are principally to be conducted are, the Town of Ogden, County of Monroe, State of New York.

17. The post office address to which the Secretary of State shall mail a copy of any notice required by law is Elmgrove Developers, Inc., 1739 Ridgeway Avenue, Rochester, New York 14615.

18. Subscriber is of the age of nineteen (19) years or older.

19. Every person or entity who is a record owner of a fee or undivided fee interest in any lot which is subject by covenants of record to assessment by the corporation, including contract sellers, shall be a member of the corporation.

The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment by the corporation.

20. The affairs of the corporation shall be managed by a board of directors, who need not be members of the corporation. The number of directors shall be as set by the By-Laws of the corporation.

21. Any action required or permitted to be taken by the board of directors may be taken without a meeting if all members of the board consent in writing to the adoption of a resolution authorizing such action.

22. No approvals or consents are required under the Not-for-Profit Corporation Law prior to the filing of this Certificate of Incorporation.

IN WITNESS WHEREOF, I have made, subscribed and acknowledged this Certificate of Incorporation, this 30th day of April, 1981.

S/Kenneth K. Doolittle, Esq.

Kenneth K. Doolittle, Esq.
47 South Fitzhugh Street
Rochester, New York 14614

STATE OF NEW YORK)
COUNTY OF MONROE)

On this 30th day of April, 1981, before me, the subscriber, personally appeared Kenneth K. Doolittle, to me personally known and known to be to be the same person described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

S/Duncan R. Farney

Notary Public

B Y - L A W S

INGLEWOOD TOWN HOMES HOMEOWNERS ASSOCIATION, INC.

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B Y - L A W S
of
INGLEWOOD TOWN HOMES HOMEOWNERS ASSOCIATION, INC.

ARTICLE I

Purpose and Office

1.1 Purpose

INGLEWOOD TOWN HOMES HOMEOWNERS ASSOCIATION, INC. has been formed for the purpose of owning, operating and maintaining, preserving and exercising architectural control of the Lots and Common Area of the INGLEWOOD TOWN HOMES Development exclusively for the benefit of its members.

1.2 Office

The principal office of the Association shall be located in the Town of Ogden, Monroe County, New York.

ARTICLE II

Definitions

2.1 "Association" shall refer to the Inglewood Town Homes Homeowners Association, Inc. and its successors and assigns.

2.2 "Properties" shall refer to the real property described in the Declaration of Covenants, Restrictions, Easements and Liens ("Declaration"), and after any annexation, such additional lands as may be annexed thereto in the manner prescribed in the Declaration.

- 2.3** "Common Area" shall refer to all real property owned by the Association for the common use and enjoyment of the Owners.
- 2.4** "Lot" shall refer to any plot of land shown upon any recorded subdivision or resubdivision map of the Properties, with the exception of the Common Area.
- 2.5** "Owner" shall refer to the record owner, whether one or more persons or entities, of the title to any Lot which is part of the Properties, but excluding those having such interest merely as security for the performance of any obligation.
- 2.6** "Declarant" shall refer to Monroe Properties, Inc., and Lancaster Homes, Inc., their successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE III

Members and Meetings

3.1 Membership

The Association shall have as voting members, only Owners of Lots. All Owners, upon becoming such, shall be deemed automatically to have become members of the Association and there shall be no other qualification for membership. The foregoing is not intended to include persons or entities who hold an interest merely as security

for the performance of any obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

3.2 Assessments

As more fully provided for in the Declaration, each member is obliged to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent; if the assessment is not paid within fifteen (15) days of the due date, it shall bear a late charge of Five Dollars (\$5.00); if the assessment is not paid within thirty (30) days after due date, the assessment shall bear interest from the date of delinquency at the rate of 1.5% per month and the Association may bring an action at law against the Owner personally obligated to pay the assessment or foreclose its lien against the property, or both; and late charges, interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise relieve himself from liability for the assessments provided for him by non-use of the Common Area or abandonment of his Lot or by renunciation of membership in the Association.

3.3 Annual Meetings

The annual meeting of the members of the Association shall be held at the principal office of the Association on the first Friday in February of each year, if not a legal holiday, and if a legal holiday, then on the next succeeding Monday if not a legal holiday, or on such other date as the Board of Directors shall, from time to time, determine, for the purpose of electing directors and for the transaction of such other business as may properly come before the meeting.

3.4 Notice of Annual Meetings

Notice of the time, place and purpose of the annual meeting shall be served, either personally or by mail, not less than ten, nor more than forty days before the meeting upon each member who appears upon the books of the Association as a member and, if mailed, such notice shall be directed to the member at his address as it appears on the books of the Association, unless he shall have filed with the Secretary of the Association a written request that notice intended for him be mailed to some other address, in which case, it shall be mailed to the address designated in such request.

3.5 Special Meetings

Special meetings of the members, other than those regulated by statute, may be called at any time by the President or by two

directors and must be called by the President on receipt of the written request of one-third (1/3) of the members of the Association.

3.6 Notice of Special Meetings

Notice of a special meeting stating the time, place and purpose or purposes thereof shall be served personally or by mail upon each member not less than five nor more than forty days before such meeting, and if mailed, such notices shall be directed to each member at his address as it appears on the books or records of the Association, unless he shall have filed with the Secretary of the Association a written request that notices intended for him shall be mailed to some other address, in which case it shall be mailed to the address designated in such request.

3.7 Place of Meetings

All meetings shall be held at the principal office of the Association in the Town of Ogden, except in cases in which the notice thereof designates some other place.

3.8 Quorum and Votes Required

At any meeting of members of the Association the presence of members holding one-third (1/3) of the votes of all members, in person or by proxy, shall be necessary and sufficient to constitute a quorum for all purposes except as otherwise provided by law, and the vote of a majority of the votes cast by members present at any meeting at

which there is a quorum shall be the act of the full membership except as may be otherwise specifically provided by statute, the Declaration, or by these By-Laws.

3.9 Voting

(a) At every meeting of members, each member shall be entitled to vote in person or by proxy and shall be entitled to one vote. The vote for directors and, upon the demand of any member, the vote upon any question before the meeting, shall be by ballot. All elections shall be held and all questions decided by a majority of the votes cast by the members present in person or by proxy.

(b) When any Lot is owned by more than one person or entity, as tenants by the entirety, or in joint tenancy, or tenancy in common, or any other manner of joint or common ownership or interest, such persons or entities, as Owners of a single Lot shall collectively constitute a member of the Association and be entitled to cast one vote as such. If such persons or entities cannot jointly agree as to how such vote should be cast, no vote shall be allowed with respect to such Member.

(c) The Association's Board of Directors may make such regulations as it deems advisable for any meeting of members in regard to proof of membership in the Association, evidence of right to vote, registration of members for voting purposes, and such other matters

concerning the conduct of the meetings and voting as it shall deem fit.

(d) The Board of Directors may issue rules specifying the method by which the Secretary shall be apprised of the names and addresses of all Owners and the number of votes to which each is entitled to cast at any meeting of the membership.

(e) A member may vote as such either in person or by proxy executed in writing by the member or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven months from its date, unless otherwise provided in the proxy. Every proxy shall be in writing, subscribed by the member or his duly authorized attorney-in-fact and dated, but need not be sealed, witnessed or acknowledged.

(f) At each meeting of members, a full, true and complete list in alphabetical order of all members entitled to vote in such meeting, certifying the number of votes each member is entitled to cast, shall be furnished by the Secretary.

(g) In no event, after one year from the date of recording the Declaration, may Declarant or its successors or assigns cast a majority of the votes for the election of any member of the Board of Directors of the Association; nevertheless, so long as Declarant, its successors or assigns, shall own two or more Lots, within the period

of ten years from the date of recording the Declaration, then and in such event, it shall have the right to designate one member of the Board of Directors.

3.10 Waiver of Notice

Whenever, under the provision of any law or under the provisions of the Certificate of Incorporation or By-Laws of this Association, the Association or the Board of Directors or any committee thereof is authorized to take any action after notice to the members of the Association or after the lapse of a prescribed period of time, such action may be taken without notice and without the lapse of any period of time, if at any time before or after such action be completed, such requirements be waived in writing by the person or persons entitled to such notice or entitled to participate in the action to be taken or by his attorney so authorized.

3.11 Inspectors of Election

If required by any member, the President shall, at the Annual Meeting appoint two persons who need not be members to serve as inspectors of election.

3.12 Removal of Directors or Officers

Any director or officer may be removed from office by the majority of the votes cast by the members present either in person or by proxy, at any regular or special meeting called for that purpose,

for conduct detrimental to the interests of the Association, or for refusal to render reasonable assistance in carrying out its purposes. Any such officer or director proposed to be removed shall be entitled to at least five days notice in writing by mail of the meeting at which such removal is to be voted upon and shall be entitled to appear before and be heard at such meeting.

3.13 Compensation and Expenses

Members shall not receive any compensation for services rendered to the Association. The Board of Directors shall have the power, in its discretion, to contract for and to pay to members rendering unusual or special services to the Association, special compensation appropriate to the value of such services.

ARTICLE IV

Directors

4.1 Election

The business and property of the Association shall be managed and controlled by the Board of Directors, who shall be elected annually by the members to hold office for three years or until the election of their respective successors, except as hereinafter otherwise provided for filling vacancies. The directors need not be members of the

Association and shall be chosen by ballot at the annual meeting by a majority of the votes of the members, voting either in person or by proxy. Provided, however, in years when there shall be more than one vacancy on the Board of Directors to be filled at the annual meeting, if there shall be more nominees than vacancies to be filled, the President may hold a single ballot and declare the vacancies filled by the respective nominees receiving the greatest number of votes so that one or more directors may be elected by a plurality of votes in lieu of a majority. At the first annual meeting, five directors will be elected, one for a term of one year (Class I), two for a term of two Years (Class II), and two for a term of three years (Class III). Successive terms for each class of director shall be for a term of three years.

4.2 Resignation

Any director may resign at any time by giving written notice of such resignation to the Board of Directors.

4.3 Vacancies

Any vacancy in the Board of Directors occurring during the year, may be filled for the unexpired portion of the term by the directors then serving, although less than a quorum, by affirmative vote of the majority thereof. Any director so elected by the Board of Directors shall hold office until the next succeeding annual meeting of the members of the Association or until the election of his successor.

4.4 Organizational Meeting

Immediately after each annual election the newly elected directors shall meet at the principal office of the Association for the purpose of organization, the election of officers, and the transaction of other business, and if a quorum of the Directors be then present, no prior notice of such meeting shall be required to be given. The place and time of such first meeting may, however, be fixed by written consent of all the Directors.

4.5 Special Meetings

Special meetings of the Board of Directors may be called by the President and must be called by the President on the written request of any member of the Board.

4.6 Notice of Meetings

Notice of all Directors' Meetings, except as herein otherwise provided, shall be given by mailing the same at least three days or by telegraphing the same at least one day before the meeting to the usual business or residence address of the Director, but such notice may be waived by any Director. Regular Meeting of the Board of Directors may be held without notice at such time and place as shall be determined by the Board. Any business may be transacted at any director's meeting. At any meeting at which every director shall be present, even though without notice or waiver thereof, any business may be transacted.

4.7 Chairman

At all meetings of the Board of Directors, the President, or in his absence, a chairman chosen by the Directors present, shall preside.[. . . A CHAIRMAN PRESENT, CHOSEN BY THE DIRECTORS, SHALL /?]

4.8 Quorum

At all meetings of the Board of Directors, a majority of the Directors shall be necessary and sufficient to constitute a quorum for the transaction of business and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by statute or by these By-Laws.

4.9 Contracts and Services

The Directors and Officers of the Association may be interested directly or indirectly in any contract relating to or incidental to the operations conducted by the Association, and may freely make contracts, enter transactions, or otherwise act for and on behalf of the Association, notwithstanding that they may also be acting as individuals, or as directors of corporations, or as agents for other persons or business concerns, or may be interested in the same matters as stockholders, directors, or otherwise; provided, however, that any contract, transaction, or act on behalf of the Association in a matter in which the directors or officers are personally interested as

stockholders, directors, or otherwise shall be at arm's length and not violative of the proscriptions in the Certificate of Incorporation against the Association's use or application of its funds for private benefit. In no event, however, shall any person or other entity dealing with the directors or officers be obligated to inquire into the authority of the directors and officers to enter into and consummate any contract, transaction, or other action.

4.10 Compensation

Directors shall not receive any compensation for their services as such. The Board of Directors shall have power, in its discretion, to contract for and to pay to directors rendering unusual or exceptional services to the Association special compensation appropriate to the value of such services.

4.11 Powers

All the Association powers, except such as are otherwise provided for in these By-Laws, and in the laws of the State of New York, shall be and are hereby vested in and shall be exercised by the Board of Directors. Such powers shall include, but shall not be limited to, the following:

- (a) To adopt and publish rules and regulations governing the use of the Common Area and facilities, the personal conduct of the members and their guests, and to establish penalties for the infraction thereof.

(b) To suspend the right of a member to use any recreational facilities owned by the Association during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing for a period not to exceed thirty (30) days for infraction of the published rules and regulations.

(c) To authorize the officers to enter into management agreements with third parties in order to facilitate the efficient operation of the Properties. It shall be the primary purpose of such management agreements to provide for the administration, management, repair and maintenance of the Properties, all improvements included therein and designated as Common Areas, the roofs and exterior walls of the Townhouses, and the receipt and disbursement of funds as may be authorized by the Board of Directors. The terms of these management agreements shall be determined by the Board to be in the best interests of the Association and shall be subject in all respects to the Certificate of Incorporation, these By-Laws, and the Declaration.

4.12 Duties

The Board of Directors shall present at the annual meeting of members and file with the Minutes thereof, a report, verified by the President and Treasurer, or by a majority of the directors, showing (a) the whole amount of real and personal property owned by the association, where located, and where and how invested; (b) the amount

and nature of the property acquired during the year immediately preceding the date of the report and the manner of the acquisition; **(c)** the amount applied, appropriated or expended during the year immediately preceding such date and the purposes, objects, or persons to or for which such applications, appropriations, or expenditures have been made; and **(d)** the names and places of residence of the persons who have been admitted to membership during the year. It shall be the duty of the Board of Directors to:

(a) As more fully provided in the Declaration:

(1) Fix the amount of the annual assessment against each Lot at least thirty days in advance of each annual assessment period;

(2) Send written notice of each assessment to every Owner subject thereto at least thirty days in advance of each assessment period; and

(3) Foreclose any lien against any property for which assessments are not paid within thirty days after due date or to bring an action at law against the Owner personally obligated to pay assessments.

(b) Issue or cause to be issued upon demand of any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance

of such certificates. If a certificate states an assessment has been paid, such certificates shall be conclusive evidence of such payment.

(c) To procure and maintain adequate liability insurance, to procure adequate hazard insurance on property owned by the Association, and to procure insurance on all Townhouses within the Association, as Trustee for all members, being shown as one of the payees of the proceeds of the insurance, all as the Directors deem advisable.

(d) To cause all officers or employees having fiscal responsibility to be bonded, if and as it may deem appropriate.

(e) To cause the Common Area to be maintained.

(f) To cause the roofs and exterior surfaces of the dwellings to be maintained.

ARTICLE V

Officers

5.1 Number

The officers of the Association shall be the President, Secretary, Treasurer, and such other officers with such powers and duties not inconsistent with these By-Laws, as may be appointed and determined by the Board of Directors. Any two offices, except those of President and Secretary, may be held by the same person.

5.2 Election, Term of Office and Qualifications.

The President shall be elected annually by the Board of Directors from among their number, and the other officers shall be elected annually by the Board of Directors from among such persons as the Board of Directors may see fit, at the first meeting of the Board of Directors after the annual meeting of the members of the Association.

5.3 Vacancies

In case any office of the Association becomes vacant by death, resignation, retirement, disqualification, or any other cause, the majority of the directors then in office, although less than a quorum, may elect an officer to fill such vacancy, and the officer so elected shall hold office and serve until the first meeting of the Board of Directors after the annual meeting of members next succeeding and until the election of his successor.

5.4 President

The President shall preside at all meetings of members and the Board of Directors. He shall have and exercise general charge and supervision of the affairs of the Association and shall do and perform such other duties as may be assigned to him by the Board of Directors.

5.5 Secretary

The Secretary shall have charge of such books, documents, and papers as the Board of Directors may determine and shall have custody of the corporate seal. He shall attend and keep the minutes of all the meetings of the Board of Directors and members of the Association. He shall keep a record, containing the names, alphabetically arranged, of all persons who are members of the Association, showing their places of residence, and such book shall be open for inspection as prescribed by law. He may sign with the President, in the name and on behalf of the Association, any contract or agreements authorized by the Board of Directors, and when so authorized or ordered by the Board of Directors, he may affix the seal of the Association. He shall, in general, perform all the duties incident to the office of Secretary, subject to the control of the Board of Directors, and shall do and perform such other duties as may be assigned to him by the Board of Directors.

5.6 Treasurer

The Treasurer shall have the custody of all funds, property, and securities of the Association, subject to such regulations as may be imposed by the Board of Directors. He may be required to give bond for the faithful performance of his duties, in such sum and with such sureties as the Board of Directors may require. When necessary or

proper, he may endorse on behalf of the Association for collection checks, notes, and other obligations, and shall deposit the same to the credit of the Association at such bank or banks or depository as the Board may designate. He shall sign all receipts and vouchers and, together with such officer or officers, if any, as shall be designated by the Board of Directors, he shall sign all checks of the Association and all bills of exchange and promissory notes issued by the Association except in cases where the signing and execution thereof shall be expressly designated by the Board of Directors or by these By-Laws to some other office or agent of the Association. He shall make such payments as may be necessary or proper to be made on behalf of the association. He shall enter regularly on the books of the Association to be kept by him for the purpose, full and accurate account of all monies and obligations received and paid or incurred by him for or on account of the Association, and shall exhibit such books at all reasonable times to any director or member on application at the offices of the Association. He shall, in general, perform all the duties incident to the office of Treasurer, subject to the control of the Board of Directors.

5.7 Compensation and Expenses

Officers shall not receive any compensation for their services as such. The Board of Directors shall have power, in its discretion, to

contract for and to pay to an officer rendering unusual or exceptional services to the Association special compensation appropriate to the value of such services. The fact that any officer is a member of the Association or a director, or a member of an advisory committee, shall not preclude him from receiving a salary or from voting on the resolution providing for the same.

5.8 Removal

Any officer may be removed from office by the majority vote of all the directors at any regular or special meeting called for that purpose, for nonfeasance, malfeasance, or misfeasance, for conduct detrimental to the interests of the association, or for refusal to render reasonable assistance in carrying out its purposes. Any officer proposed to be removed shall be entitled to at least five (5) days notice in writing by mail of the meeting of the Board of Directors at which such removal is to be voted upon and shall be entitled to appear before and be heard by the Board of Directors at such meeting.

ARTICLE VI

Advisory Committee

The Board of Directors may appoint from their number, or from among such persons as the Board may see fit, one or more advisory committees, and at any time may appoint additional members thereto.

The members of any such committee shall serve during the pleasure of the Board of Directors. Such advisory committees shall advise with and aid the officers of the Association in all matters designated by the Board of Directors. Each such committee may, subject to the approval of the Board of Directors, prescribe rules and regulations for the call and conduct of meetings of the committee and other matters relating to its procedure.

The members of any advisory committee shall not receive any stated salary for their services as such. The Board of Directors shall have power in its discretion to contract for and to pay to any member of any advisory committee, rendering unusual or exceptional services to the Association, special compensation appropriate to the value of such services.

ARTICLE VII

Fiscal Year

The fiscal year of the Association shall commence on June 1st of each year and end on May 31st of the following year.

ARTICLE VIII

Prohibition Against Sharing in Corporate Earnings

No member, director, officer, or employee of, or person connected with the Association, or any other private individual shall receive at

any time any of the net earnings or pecuniary profit from the operations of the Association; provided that this shall not prevent the payment to any such person such reasonable compensation for services rendered to or for the Association in effecting any of its purposes or as shall be entitled to share in the distribution of any of the Association assets upon the dissolution of the Association.

ARTICLE IX

Indemnification

To the extent permitted by law, the Association shall indemnify and defend any person made a party to any proceeding by reason of the fact that he is, or was, a director or officer of the Association against any loss and expense incurred by him by reason of such proceeding, including the settlement thereof, except in relation to matters which such person is adjudicated to be liable for gross misconduct in the performance of his duties.

ARTICLE X

Amendment

Subject to the restrictions contained herein, the By-Laws may be altered, amended or repealed at any meeting of members of the Association by any affirmative vote of two-thirds of all votes cast by the members, represented either in person or by proxy at such meeting,

provided that (i) a full statement of the proposed amendment is inserted in the notice of such meeting, and (ii) said amendment shall be set forth in a duly recorded amendment to the Declaration, except that paragraph 3.9(g) of these By-Laws may not be amended, within the period of ten (10) years from the date of recording the Declaration, without the express written consent of Declarant, its successors or assigns. However, no amendment will affect or impair the validity or priority of a Lot Owner's interest or the interest of holders of a mortgage encumbering any Lot.

ARTICLE XI

Dissolution

Subject to the restrictions contained herein, the Association may be dissolved by action of the members at any meeting of members of the Association by affirmative vote of two-thirds (2/3) of all votes cast by the members, represented either in person or by proxy, provided that the proposed action is inserted in the notice of such meeting, except that no action to dissolve this Association may be taken within the period of ten years from the date of recording the Declaration, without the express written consent of Declarant, its successors or assigns.

ARTICLE XII

Restrictions

In addition to Restrictions in the Declaration and the other provisions of these By-Laws, the Board of Directors may, from time to time, adopt rules and regulations governing the use of the Common Area and the conduct of all residents and guests on the Properties.

ARTICLE XIII

Miscellaneous

13.1 Insurance.

Under no circumstances shall an Owner permit or suffer anything to be done or left in his Townhouse which will increase the insurance rates on his Townhouse or any other Townhouse, or the Common Area.

13.2 Severability.

Should any of the covenants, terms or provisions herein imposed be void, or be or become unenforceable at law or in equity, the remaining provisions of these By-Laws shall, nevertheless, be and remain in full force and effect.

13.3 Construction.

Whenever 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 context so requires. In the event of any conflict between these By-Laws and the Declaration or the Certificate of Incorporation of the Association, the latter, as the case may be, shall control.