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INSTR. 5163

5/3/93

**DECLARATION OF ESTABLISHMENT**

MAY 13 AM 2:59

of

VIOLE HAGLUND REC.  
DICKINSON COUNTY IOWA

**A HORIZONTAL PROPERTY REGIME (CONDOMINIUM)**

130.00

to be known as

**CHALSTROM BEACH PLANTATION**

The undersigned, Fidelity Properties, Ltd., hereinafter referred to as Developer, hereby submits the land and buildings hereinafter described to a Horizontal Property Regime pursuant to the provisions of Chapter 499B of the 1993 Code of Iowa, thereby establishing a plan for individual ownership of the area or space contained in each unit and establishing the co-ownership of all the remaining real property by the individual owners as tenants in common. This Declaration and the By-Laws shall constitute covenants binding upon the Developer, all subsequent owners and their successors in interest, said Declaration and By-Laws to run with the land. As used throughout this Declaration and the By-Laws, "Apartment" and "Unit" shall have the same meaning as "Condominium Unit".

In compliance with Section 499B.4 of the 1993 Code of Iowa, the following declarations are made:

1. The description of the land to be subject to this Horizontal Property Regime (Condominium) is Lot 1, The Plantation Subdivision, Okoboji, Dickinson County, Iowa.

2. The buildings submitted to this Declaration are six three-story twelve-unit residential structures. There are no basements. Also submitted is a Club House. The principal material of all units constructed is wood. There are 97 garages in seven separate buildings.

3. The six residential buildings are individually named. The most westerly residential building is designated Folly. The residential building directly to the east of Folly is designated Edisto. The residential building directly to the east of Edisto is designated Dogwood. The residential building directly to the east of Dogwood is designated Cypress. The residential building

directly to the east of Cypress is designated Beachwood. The residential building directly to the east of Beachwood is the most easterly of the residential buildings and is designated Augusta.

The Clubhouse is a recreational building located on the northerly part of the land subject to this Horizontal Property Regime. The seven garage buildings are located behind or northerly of the residential buildings. For the exact locations of all of these buildings, see the site plan which is attached hereto as Exhibit "A".

The apartment number of each apartment, its location, approximate area, number of rooms and immediate common area to which each apartment has access are shown on the site plan and building plans which are attached hereto.

4. At the time of filing of this Declaration, only Dogwood and Cypress residential buildings and the Clubhouse are being constructed as well as all seven garage buildings. The four remaining residential buildings will be constructed as market conditions warrant. The interior of individual apartment units on buildings to be constructed may not be identical. The exterior of additional residential buildings will have continuity but may not be identical. The Developer reserves the right to locate the additional residential and garage buildings in a slightly different manner than shown on the site plan and to make other modifications in construction as long as such modifications shall not materially effect any purchasers rights or obligations. The Developer retains the unilateral right until all 72 residential units are sold to make these minimal variations and if Developer elects to do so, Developer shall file a supplemental declaration setting out such variations. There are more garages than residential units. There is no assignment of garages to particular residential units. When Developer conveys a residential unit, it shall also convey at least one but not more than two garages. Whenever a residential unit is conveyed, at least one garage unit shall be conveyed with and shall remain appurtenant thereto. A second garage may be conveyed independently of a unit but only to become appurtenant to

the ownership of another residential unit. Under no circumstances can a garage be owned except in connection with the ownership of a unit and under no circumstances can three or more garages be owned in association with any one residential unit.

5. Ownership of the unit carries with it the ownership of an undivided interest in all general common elements and facilities as defined herein. These general common elements and facilities, which shall be held by the owners as tenants in common, shall be the land on which the buildings are erected, the foundations, the main sanitary sewer and water lines, the walls, floors, ceilings and roofs of each unit and of the buildings (except the interior surfaces and except partition walls within individual units), the main exterior doors of each building, the Club House, tennis courts, swimming pool, mailboxes, stairways, walkways, garbage collection area, driveways, parking lots, sidewalks, outside electrical lighting units, landscaping, shrubbery and general improvements to the grounds, lawn or lake front, pipes, wires, fire alarm system, conduit and other public utility lines which are utilized for or serve more than one unit, facilities and personal property required for the use of personnel engaged in performing services for the development and all other devices or installations existing for common use and defined as General Common Elements by Section 499B.2 of the 1993 Code of Iowa. The owners of a unit shall be deemed to own the cupboards, counters, plumbing fixtures and walls or partitions that are contained wholly within the particular unit and shall be deemed to own the inner decorated and/or finished surfaces of the perimeter walls, floor and ceiling including paint, wallpaper, linoleum, carpeting, etc., which are deemed to be a permanent part of each unit. The owner of each unit shall be solely responsible for the care, maintenance, repair, replacement and restoration of each unit including windows, garage doors, interior doors, entrance doors to individual units, plumbing and lighting fixtures, heating and air-conditioning equipment, refrigerator, dishwasher, disposal, range or other equipment or

personal property connected with such unit for its exclusive use, except as otherwise provided.

In the event pipes, wires, conduits or other public utility lines run through one unit which are utilized for or serve one or more other units, a valid easement for the maintenance of said pipes, wire, conduits, or other public utility lines shall exist and in the event any part of the building is partially or totally destroyed and later rebuilt, repaired, or restored as hereinafter provided, a valid easement for replacement and maintenance of said pipes, wires, conduits or other public utility lines shall exist.

6. Patios, decks, building entrances and entrance sidewalks are for the exclusive use of the respective units, but repair and maintenance shall be a common expense.

7. The fractional interest which each unit bears to the entire Horizontal Property regime is one/seventy-second (1/72). Payment of common expenses and voting rights shall be consistent with the fractional interest except as hereinafter set forth.

8. In the event of damage or destruction of all or part of the property covered by this Horizontal Property Regime, it shall be the duty of Association to restore and repair the same to its former condition as promptly as is practical in a lawful and workmanlike manner. The proceeds of any insurance maintained pursuant to this Declaration or the By-Laws of Chalstrom Beach Plantation Beach Owners Association shall be used for such purpose, subject to the rights of first mortgagees whose interests may be protected by said policies.

If the proceeds of such insurance policies for restoration and repair is eighty-five percent (85%) or more of the estimated costs of restoration and repair, an emergency assessment may be levied by Association if necessary to provide the funds for such reconstruction and repair over and above the amount of insurance proceeds available for such purpose. In the event the insurance proceeds are less than eighty-five percent (85%) of the estimated cost of restoration and repair, the improvements shall not be replaced or restored unless approved by a vote or written consent

of the majority of the total number of votes outstanding and entitled to be cast.

In the event a determination is made not to replace or restore the improvements on the condominium property, the entire condominium property shall be deemed owned in common by the apartment owners and subject to partition and sale. In the event excess insurance proceeds are remaining they shall be retained in the general funds of Association.

Insurance policies purchased by the Association shall provide coverage at replacement cost.

Any policy purchased by Association shall provide coverage for fixtures, installations or additions that are within individual units, including but not limited to paint, wallpaper, panelling, tile, carpeting, air conditioners, cabinets, cooking ranges, clothes washers and dryers, electrical fixtures, dishwashers, fire extinguisher apparatus, plumbing fixtures and refrigerators.

Association shall also obtain comprehensive general liability insurance which shall protect Association for bodily injury and property damage.

The personal property of the unit owners, such as furniture and clothing, will not be covered by Association's policy. Any owner may and is encouraged to carry personal liability insurance.

9. The administration of this Regime shall be vested in Chalstrom Beach Plantation Owners' Association, a non-profit corporation, consisting of all of the owners of the units subject to the provisions herein. This Association shall be the "Council of Co-Owners" within the meaning of Chapter 499B of the 1993 Code of Iowa and shall have all powers and authority granted to it by said Chapter, including, but not limited to the responsibility for the care, maintenance, repair, replacement and restoration of the structure, common elements and facilities and the making of assessments chargeable to owners. All sums so assessed but unpaid shall constitute a lien on the respective unit prior to all other liens, except: (1) liens for taxes and assessments lawfully imposed by governmental authority against such property; and (2)

all sums secured by mortgages of record. Such lien may be foreclosed by suit by Association or its representatives in like manner as a mortgage of real property provided that thirty (30) days written notice of the intention to foreclose shall be mailed, postage prepaid, to the owner as shown by Association's record of ownership as set out below. In the event a lien of Association shall be foreclosed, the unit owner shall be required to pay a reasonable rental for the unit and Association shall be entitled to the appointment of a receiver to collect the same. Association or its representatives shall have the power to bid on such unit at foreclosure sale and to acquire, hold, lease, mortgage and convey such unit. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same.

10. Association may perfect a lien for unpaid assessments by filing a notice thereof with the Dickinson County Recorder. Such notice shall be signed by an officer of Association.

11. When a mortgagee or purchaser of a unit obtains title as a result of foreclosure of a first mortgage, such mortgagee or purchaser shall not be liable for the assessments chargeable to such unit due prior to the acquisition of title. Such unpaid assessment shall thereafter be deemed to be common expenses collectable from all unit owners including the mortgagee or purchaser.

12. In a voluntary conveyance, the Grantee of an apartment shall be jointly and severally liable with the Grantor for all unpaid assessments on that unit up to the time of the conveyance. The Grantees shall, however, retain the right to recover from the Grantor any amounts paid by the Grantee therefore. Any Grantee under a voluntary conveyance shall be entitled to a statement from the Council of Co-Owners or its representatives stating the amount of the unpaid assessments against the Grantor and said Grantee shall not be liable for nor shall the apartment conveyed be subject to a lien for any unpaid assessments in excess of the amount appearing in said statement.

13. The term "owner" as used in this Declaration and in the By-Laws shall mean record holder of title to the unit and shall include a contract purchaser in possession. In the event of multiple, corporate or fiduciary ownership, said owner or owners shall designate in a letter filed with the Secretary of Association, a person to act as owner in connection with the voting rights and administration referred to in this Declaration and the By-Laws. Notices to be given by Association are properly given to the owner or owners of the respective unit if given to the designated person. Each unit shall be entitled to have one vote but not more than one and that vote may not be split. The owner of a unit in Chalstrom Beach Plantation shall be a member of Association and shall remain a member until such time as ownership ceases for any reason.

14. Any instrument effecting an interest in real estate shall be executed by any two officers upon authorization of the Executive Board.

15. All agreements and determinations lawfully made by Association or its Board or Officers shall be deemed binding upon all owners, their tenants, guests, successors or assigns. Failure to comply with the Declaration, By-Laws, decisions, rules, resolutions, agreements and determinations of Association or its Board of Directors or Officers shall be grounds for an action to recover damages or for injunctive relief.

16. No owner may be exempted from liability for contributions toward common expenses by waiver of the use or enjoyment of the common elements and facilities or by the abandonment of the unit.

17. The property shall be used for residential purposes only, and unless agreed upon by all unit owners the leasing or renting to a non-owner shall be limited to a minimum period of thirty (30) days. All leases shall be in writing and a copy thereof provided to the Association prior to possession. No lease shall relieve the owner as against Association and other owners from any responsibility or liability imposed by the condominium documents.



18. Voting by an owner may be by written proxy filed with the Secretary of Association.

19. No unit may be sold without also conveying to the same purchaser that unit's interest in the common elements. Likewise, no sale or conveyance of an interest in the common elements and facilities can be made without a sale or conveyance to the same purchaser of the corresponding unit.

20. Incidental damage caused to a unit through maintenance by Association shall be repaired by Association as a common expense.

21. No owner shall make any alteration or improvement to or extension into any common element or facility or remove any portion thereof without approval of Association.

22. No owner shall convey, mortgage or lease any unit unless and until all common charges assessed and accrued have been paid.

23. Association may:

- A. Regulate pets and the ownership of and use of motorcycles or other power driven equipment on the premises but may prohibit pets only if such prohibition is approved by 100% of Association's voting members;
- B. Control the erection of For Sale or other signs;
- C. Regulate or assign designated parking areas;
- D. Restrict or prohibit parking of boats, recreational vehicles and equipment of a similar nature; and
- E. Adopt, amend and enforce other reasonable restrictions and regulations related to the use and enjoyment of the premises.

24. No animal pens, sheds, fences or other outbuildings, wires or structures of any kind shall be erected by any owner in

any common area. No pets larger than 30 lbs. shall be allowed on the premises. No noise or other activity shall be allowed which unduly interferes with the peaceful possession and proper use of the property by its owners, nor shall any fire hazard or unsightly accumulation of refuse be allowed. All laws, ordinances and regulations of governmental bodies shall be observed by the owners and Association.

No pets shall be allowed to run at large and when outdoors for necessary short term periods they shall remain on a leash and be attended. Owners must collect and dispose of waste deposited by their pets.

Boat hoist covers shall be a uniform color as determined by the Board.

25. Each unit owner covenants and agrees to pay the separately metered utility expenses, to maintain a minimum year round temperature of 50° Fahrenheit within the unit and to turn off the water to the unit if the owners expect it to be unoccupied for seven (7) days or more.

26. An owner shall be liable to Association for the expenses of any maintenance, repair, or replacement rendered necessary by his or her act, neglect or carelessness or by that of the owner's family, guests, employees, agents or lessees, which liability shall include any increase in insurance rates resulting therefrom.

27. Notwithstanding any other provision herein or in the By-Laws, Developer is irrevocably empowered to transact on the property any business relating to construction, sale, lease or rental of units, including the right to maintain models, offices, signs, employees, equipment and materials on the premises. This right shall continue until this Development has been fully developed and sold.

28. Every director and officer of Association shall be indemnified by Association for all expenses and liabilities including legal fees reasonably incurred by or imposed upon him or her in connection with any proceeding to which he or she may be a party by reason of his or her being or having been a director or

officer of the Association, except in such cases where the director or officer is adjudicated guilty of willful misfeasance or malfeasance in the performance of his or her duties. In the event of a settlement, this indemnification shall apply only when the Board of Directors approves such settlement as being in the best interests of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all the rights to which such directors or officers may be entitled.

29. This Declaration may be amended in any of the following manners:

- A. By written amendment duly executed by all owners and filed with the Dickinson County Recorder; or
- B. Written notice of a proposed amendment shall be given all owners. Such notice shall designate a time and place for a meeting to consider such proposed amendment which time shall be not less than thirty (30) nor more than sixty (60) days from the date such notice is actually given. At such meeting, the amendment shall be adopted upon approval of 60% of the votes present.

30. Notwithstanding the above and the provisions of the By-Laws, the Developer shall retain the right to name all Directors of Association until all 72 units have been sold. Such Directors need not be unit owners. Developer shall not be required to pay assessments for any unit held by it until a unit is sold or occupied. Until all units are sold no amendment of this Declaration or the By-Laws shall be permitted unless approved by Developer.

In Witness Whereof, the undersigned has executed this instrument this 6<sup>th</sup> day of May, 1993, at Spirit Lake, Dickinson County, Iowa.

FIDELITY PROPERTIES, LTD,  
BY [Signature]  
James C. Gardner, President

BY [Signature]  
Kelly J. Hoiem, Vice President

STATE OF IOWA )  
 ) SS  
DICKINSON COUNTY )

On this 6<sup>th</sup> day of May, 1993, before me, the undersigned, a Notary Public, in and for the State of Iowa, personally appeared James C. Gardner and Kelly J. Hoiem, to me personally known, who being by me duly sworn, did say that they are the President and Vice President, respectively, of the corporation executing the within and foregoing instrument, that no seal has been procured by the corporation; that said instrument was signed on behalf of the authority of its Board of Directors; and that James C. Gardner and Kelly Hoiem, as said officers acknowledged the execution of the foregoing instrument to be the voluntary act and deed of the corporation, by it and by them voluntarily executed.

[Signature]  
Notary Public, State of Iowa.

## BY-LAWS

OF

## CHALSTROM BEACH PLANTATION HOMEOWNERS' ASSOCIATION

(A non-profit corporation)

The administration of the property submitted to the attached Declaration of Establishment of a Horizontal Property Regime (Condominium) known as Chalstrom Beach Plantation shall be governed by the Declaration of Establishment, Articles of Incorporation and the following By-Laws, which are annexed to the Declaration and made a part thereof.

1. The administration of this Horizontal Property Regime shall be conducted by the Executive Board which shall constitute the Board of Administration within the meaning of Chapter 499B of the 1993 Code of Iowa, subject, however, to those powers and the responsibilities reserved to Chalstrom Beach Plantation Owners' Association and subject to the rights reserved by Developer.

2. When Developers reserved rights are released or terminated, the council of co-owners known as Chalstrom Beach Plantation Owners' Association shall be governed as follows:

A. The annual meetings of Association shall be held on the third Saturday in July in each year at 10:00 o'clock a.m. for the purpose of electing a President, Vice President, Secretary-Treasurer and two directors at large, and for transacting any other business authorized to be transacted by Association.

B. Meetings of Association shall be held at the Club House, or such other suitable place convenient to the owners as may be designated by the President.

C. Special meetings of Association may be called by the President but shall be called by the President upon the written request of at least twelve (12) of the unit owners. Notice of such special meeting shall be given to all owners by ordinary mail addressed to their last known address not less than ten (10) days nor more than thirty (30) days prior to the date set for such meeting. The notice shall state the time and place of such meeting

and the purpose thereof. No business may be conducted at such meeting other than as stated in the written notice unless all owners are personally in attendance (not including proxies). If the President fails or refuses to call a special meeting despite proper request, the Vice President or Secretary-Treasurer shall call the meeting.

D. Notice of a meeting may be waived in writing. Attendance by an owner at any meeting of Association shall constitute a waiver of notice.

E. A quorum at Association meetings shall consist of a majority of the owners. Action approved by a majority of those present at a meeting at which a quorum is present shall be valid except where approval by a greater number of owners is required by the Declaration, Articles of Incorporation or these By-Laws. The joinder of an owner in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of a member for the purpose of determining a quorum.

F. Votes may be cast in person or by proxy. Proxies must be in writing and filed with the Secretary before the time of the meeting. A proxy so filed shall constitute that owner's presence at the meeting except as stated in Paragraph 2.C above unless the proxy expressly so provides.

G. If any Association meeting cannot be held because a quorum is not in attendance, the owners who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.

H. The order of business at all annual meetings of Association shall be as follows:

- i. Roll call and certification of proxies;
- ii. Proof of notice of meeting and waivers of notice;
- iii. Reading the minutes of the preceding meeting;
- iv. Report of officers;

- v. Report of committees;
- vi. Election of officers and director at large;
- vii. Unfinished business;
- viii. New business;
- ix. Adjournment.

I. The latest edition of Roberts Rules of Order shall govern meetings unless specifically provided otherwise.

3. The board of administration of this Association shall be the Executive Board or Board of Directors established as follows:

A. The Executive Board shall be in charge of the administration of this Horizontal Property Regime and shall consist of five (5) persons who shall be the President, Vice President, Secretary-Treasurer and two directors at large elected by the owners at Association's annual meeting. They shall serve for a period of one (1) year and until their successors are elected, unless otherwise removed pursuant to Paragraph 3K below.

B. The powers and duties of the Executive Board shall include all the powers and duties existing under Chapter 499B of the 1993 Code of Iowa, the Declaration, the Articles of Incorporation and these By-Laws. These powers and duties shall include but not be limited to the following, subject, however, to the provisions of the Declaration, Articles of Incorporation and these By-Laws:

- ii. To make and collect assessments against members to pay the costs and expenses of the Horizontal Property Regime;
- ii. To use the proceeds of assessments in the exercise of the powers and duties;
- iii. To maintain, repair, furnish, replace and operate the property of the Horizontal Property Regime;
- iv. To purchase insurance upon the property and insurance for the

operation of Association and its members including but not necessarily limited to casualty and liability insurance. Casualty insurance shall be purchased at replacement cost value of the property.

Any policy purchased by the Association shall provide coverage for fixtures, installations or additions that are within individual units, including but not limited to paint, wallpaper, panelling, tile, carpeting, air-conditioners, cabinets, cooking ranges, clothes washers and dryers, electrical fixtures, dishwashers, fire extinguishing apparatus, plumbing fixtures and refrigerators.

- v. To reconstruct improvements after casualty and to further improve the property;
- vi. To make and amend reasonable regulations, standards and rules of conduct regarding the use and occupancy of the property;
- vii. To enforce by legal means, if necessary, the provisions of law, the Declaration, Articles of Incorporation, the By-Laws and regulations, standards and rules of conduct properly adopted;
- viii. To contract for the management of the regime and to delegate to a manager such powers and duties of



Association and its Board as it may deem appropriate and to terminate such management. The Board shall also have the power to employ attorneys, accountants, and such other professional persons as necessary to assist in said management; and

ix. The designation and removal of personnel necessary for the maintenance, repair, replacement and operation of the common areas and facilities.

C. The officers of this Association shall have the following duties and responsibilities:

i. The President shall be the chief executive officer of the Board and Association. He or she shall have all the general duties and powers which are usually vested in the office of President, including, but not limited to, the power to appoint committees from among the owners from time to time, as he or she decides is appropriate to assist in the conduct of the affairs of Association or Board;

ii. The Vice President shall, in the absence of the President, perform the President's duties. The Vice President shall also perform such other duties and provide assistance to the President as requested or ordered by Association, Board or the President;

iii. Secretary-Treasurer. The Secretary-Treasurer shall have the minute book wherein resolutions and other business of Association shall be recorded, shall have charge of such books and papers as Association or Board may direct, shall give all notices to members and directors or other notices required by law, these By-Laws or the Declaration and shall in general perform all duties incident to the office of the Secretary;

He or she shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements of Association and of the Board in books belonging to Association or to the Board. All expenditures above \$1,000.00 shall not be made without approval of the Board unless this provision is amended by resolution of the Board. In general, the Treasurer shall keep the books in accordance with good accounting practices and perform all other duties incident to the office of Treasurer;

iv. All officers shall be owners, spouses of owners or officers or agents of corporate or fiduciary owners, but this shall not preclude the appointment and employment of

non-owners as assistant secretary or assistant treasurer; and

- v. Compensation of all officers including assistant secretary and assistant treasurer shall be fixed by Association.

D. Meetings of the Executive Board shall be held at the Club House or such other suitable place convenient to the directors as may be designated by the President.

E. The annual meeting of the Executive Board shall be held in each year immediately following the adjournment of the annual meeting of Association. At such meeting, the Board shall determine what time, if any, shall be established for periodic board meetings.

F. Special meetings of the Board may be called by the President and shall be called by the President if requested by two (2) other board members. Notice of special meetings of the board shall state the time and place of any such meeting and the purpose thereof and shall be mailed by ordinary mail to each board member at least three (3) days but not more than fifteen (15) days prior to such meeting. Such special meeting shall not consider business other than that set out in the notice unless all board members are in attendance.

G. Board members may waive notice of the meeting in writing and their attendance at a meeting shall constitute a waiver of said notice.

H. A quorum of the board shall be three (3). There shall be no proxies for Board meetings. A majority of those present shall be necessary for Board action.

I. Ordinary business and decisions and resolutions of the Board may be conducted and put into effect without a formal meeting of the Board provided the full particulars of the item are reduced to writing and signed by all Board members and filed with the Secretary who shall keep said written document with the minutes of the meeting of the Board.

J. If desired by Association or by the Board a Blanket Fidelity Bond may be secured to cover anyone who may handle Association funds. The premium on such bonds shall be paid from Association funds.

K. Upon an affirmative vote of the majority of the owners any Board member may be removed either with or without cause and a successor elected at a special meeting of Association. Assistant officers may be removed upon an affirmative vote of the majority of the members of the Board present at a meeting either with or without cause and successors may be elected at any meeting, regular or special.

L. Payment vouchers exceeding the amount established by paragraph 3.C.iii. above must be approved by a majority of the Board with such approval noted in the minutes.

M. The joinder of any director in the action of a meeting of the Board by signing and concurring in the minutes thereof shall constitute the presence of such director for the purpose of determining a quorum.

N. In the event of a vacancy on the Executive Board, the remaining Board members shall elect an interim Board member to serve until the next annual election.

4. The fiscal management of this Association shall be subject to the following:

A. The Executive Board shall adopt a budget for each calendar year which shall include the following accounts:

i. Current expense, which shall include all funds and expenditures to be made within the year for which the funds are budgeted, including a reasonable amount for contingencies and working funds. Any balance in this fund at the end of each year may be applied to reduce the assessments for current expense for the succeeding year;

ii. Reserve for deferred maintenance, which shall include funds for maintenance items which occur less frequently than annually;

iii. Reserve for replacement, which shall include funds for repair or replacement required because of damage, depreciation or obsolescence;

iv. The budgets for ii. and iii. above may be unfunded as determined by the Board.

B. The budget assessments shall be made pro-rata according to the number of units sold by Developer or occupied. The assessments shall be prepared and a copy mailed to each owner prior to the December 15 preceding the year for which the budget is made. Such assessment shall be paid in two equal payments due on the first day of January and the 1st day of July of each calendar year for which the assessments are made unless Association provides otherwise. If no budget is prepared and no annual assessment made, the assessment shall be presumed to continue at the same amount as the previous year. In the event the annual assessment proves to be insufficient, the budget and assessments may be amended at any time by the Board but only at a special meeting after notice of said intention to amend the budget is given to all property owners. As units are sold by Developer or occupied they shall become responsible for the assessment payment then in effect for sold or occupied units. The apartment units which have two garages shall pay the same assessment as those with one garage.

C. If any owner shall be in default, by more than ten (10) days, in the payment of an installment, the Board may accelerate the remaining installments of the annual assessment upon notice to the unit owner and the entire balance shall be due within ten (10) days of receipt of such notice.

D. Assessments for non-emergency major improvements shall require the affirmative vote of sixty percent (60) of the unit owners. Major improvements shall be defined as those costing more than \$5,000.00.

E. Assessments for common expenses that are a result of emergencies and that cannot be paid from the annual assessments for common expenses, shall be made only after notice of the need thereof to all unit owners. After such notice and upon approval by

sixty percent (60) of the owners the assessment shall become effective and shall be due within thirty (30) days of notice thereof.

F. An accounting shall be made of all Association accounts at least annually and a copy provided to each unit owner. A majority of the owners or of the Board may require an audit by an independent party.

G. No notice need be given of Associations's annual meeting nor the Board's annual or regular meetings.

H. Residential units are individually metered for utilities. If an owner fails to pay a utility bill the Association reserves the right to pay the utility provider and then assess the unit for this expense and to collect this assessment as provided herein.

5. No modification of or amendment to the By-Laws shall be valid unless set forth in writing and duly recorded. These By-laws may be amended by Association at a meeting duly called for such purpose. No amendment shall take effect unless approved by the owners representing at least 60% of the units.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 6th day of May, 1993, at Spirit Lake, Dickinson County, Iowa.

FIDELITY PROPERTIES, LTD.

By [Signature]  
James C. Gardner, President

By [Signature]  
Kelly J. Hoien, Vice President

STATE OF IOWA            )  
                                  ) SS  
DICKINSON COUNTY        )

On this 6<sup>th</sup> day of May, 1993, before me, the undersigned, a Notary Public, in and for the State of Iowa, personally appeared James C. Gardner and Kelly J. Hoen, to me personally known, who being by me duly sworn, did say that they are the President and Vice-President, respectively, of the corporation executing the within and foregoing instrument, that no seal has been procured by the corporation; that said instrument was signed on behalf of the authority of its Board of Directors; and that James C. Gardner and Kelly J. Hoen, as said officers acknowledged the execution of the foregoing instrument to be the voluntary act and deed of the corporation, by it and by them voluntarily executed.

*Thomas J. Mott*  
Notary Public, State of Iowa



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INSTR. NO. **963836**

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JAN BORTSCHELLER  
RECORDER  
DICKINSON COUNTY, IOWA  
FEE \$ 6.00

Prepared by: James C. Ladegaard      708 Lake Street      Spirit Lake      712-336-1292

**CERTIFICATION OF AMENDMENT  
TO BY-LAWS**

The undersigned being the duly elected secretary of Chalstrom Beach Planation Homeowners' Association hereby certifies that the following amendment to the By-Laws was duly adopted by vote of more than 60 percent of the owners of units in Chalstrom Beach Plantation Homeowners' Association at the duly called annual meeting of the Association held at 10:00 o'clock a.m. on July 20, 1996. The By-Law which was adopted is to be added as Paragraph 4I as follows:

The swimming pool and spa located in the common area shall be exempt from the requirements of Chapter 135I of the 1995 Code of Iowa. The Association shall provide for inspection of the Associations' swimming pool and spa by an entity other than the Iowa Department of Public Health or any local board of health. The Association shall assume any liability associated with operation of the swimming pool and spa. The Associations' By-Laws shall also apply to all rental agreements relative to any of the dwelling units.

CHALSTROM BEACH PLANTATION  
HOMEOWNERS' ASSOCIATION

By: Kelly Holen  
Title: Secretary

Subscribed and sworn to before the undersigned this 20th day of July, 1996.

Konnie S. Mortimer  
Notary Public in and for said State

