

SECOND RECORD ~~10147~~  
10201

JUN 16 1999

TRANSFERRED BY RED #150  
IN COMPLIANCE WITH SEC. 319.202 R.C.  
LARRY A. KACZALA, AUDITOR  
LUCAS COUNTY, OHIO

DECLARATION AND BY-LAWS  
CREATING AND ESTABLISHING A PLAN FOR  
CONDOMINIUM OWNERSHIP

FEES 105 EXEMPT X  
T.D. 105 PARCEL 95099  
95100  
95101

UNDER CHAPTER 5311 OF THE REVISED CODE OF OHIO  
FOR

THE BLUFFS PLAT 3, LOT 21 CONDOMINIUM

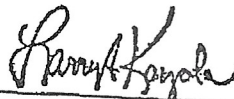
JUN 17 1999

Office of the County Auditor  
Lucas County, Ohio

TRANSFER NOT NECESSARY  
IN COMPLIANCE WITH SEC. 319.202 R.C.  
LARRY A. KACZALA, AUDITOR  
LUCAS COUNTY, OHIO

BY Rose E. Dossin  
T.D. 105 PARCEL 95099  
95100  
95101

In accordance with O.R.C. 5311.06(B), I hereby certify that a copy of the Declaration of Condominium Ownership attached to this Certificate, together with the By-Laws and Drawings attached to said Declaration of Condominium Ownership, has been filed in the Office of the County Auditor, Lucas County, Ohio.




County Auditor

Dated: JUN 16 1999

Office of the County Recorder  
Lucas County, Ohio

I hereby certify that a copy of the Declaration of Condominium Ownership attached to the Certificate, together with the By-Laws and Drawings attached to said Declaration of Condominium Ownership, has been received for record this 16<sup>th</sup> day of June, 1999, at 4:01 pm o'clock, and recorded this 16<sup>th</sup> day of June, 1999, in 145, Lucas County, Ohio Deed Records and Volume 46-48, page(s) 46-48, Lucas County, Ohio Book of Plats.



County Recorder

THIS INSTRUMENT PREPARED BY:  
Jerome R. Parker, Esq.  
Gressley, Kaplin & Parker  
608 Madison Avenue, Suite 930  
Toledo, Ohio 43604  
(419) 244-8336

Midland 40789

99 311011

99 309012

## DECLARATION

This is the Declaration of The Bluffs Plat 3, Lot 21 Condominium made on or as of the \_\_\_\_ day of June, 1999, pursuant to the provisions of Chapter 5311 of the Ohio Revised Code.

## RECITALS

WHEREAS, The Environment Building Company, an Ohio corporation ("Company") sometimes "Declarant", is the owner in fee simple of all of the real property hereinafter dedicated to this condominium regime and the improvements thereon and appurtenances thereto, by Deed Nos. 98-639B9 and 99-~~311D09~~

WHEREAS, the Declarant desires to create of this property a site of individually owned units, and common owned areas and facilities, and to these ends to submit this property to condominium ownership under the provisions of the Condominium Law.

## DEFINITIONS

The terms used in this document shall have these meanings, unless the context requires otherwise:

1. "Articles" means the articles which may be from time to time adopted by The Bluffs Plat 3, Lot 21 Condominium Association, as an Ohio non-profit unincorporated association.
2. "Association" and "The Bluffs Plat 3, Lot 21 Condominium Association" mean the unincorporated non-profit Ohio association created hereunder and are one and the same as the Association created for the Condominium pursuant to the provisions of the Condominium Law.
3. "Board" and "Board of Trustees" mean those persons who, as a group, serve as the Board of Trustees of the Association and are also one and the same as the Board of Managers of the Condominium established for the Condominium pursuant to the provisions of the Condominium Law.
4. "By-Laws" means the By-Laws of the Association, as the same may be lawfully amended from time to time, created under and pursuant to the provisions of the Condominium Law for the Condominium, and which also serve as the Code of Regulations of the Association. A true copy of the By-Laws is attached hereto and made a part hereof.
5. "Common Areas" means all of the Condominium Property except that portion thereof described herein as constituting a Unit or Units, and is that portion of the Condominium under the provisions of the Condominium Law.
6. "Condominium" and "The Bluffs Plat 3, Lot 21 Condominium" mean the condominium regime for the Condominium Property created under and pursuant to the provisions of the Condominium Law.
7. "Condominium Law" means the statutory law of the State of Ohio regulating the creation and operation of condominiums and is presently Chapter 5311 of the Ohio Revised Code.
8. "Condominium Property" means the tract of land described in Exhibit "A" attached hereto, all buildings, structures and improvements situated thereon, and all easements, rights and appurtenances belonging thereto.



9. "Declarant" means Company and its successors and assigns, provided the rights specifically reserved to Declarant under the Articles, By-Laws or hereunder shall accrue only to such heirs and assigns as are designated in writing by Declarant as heirs and assigns of such rights.

10. "Declaration" means this instrument by which the Condominium Property is submitted to the Condominium Law, as this instrument may be lawfully amended from time to time.

11. "Drawings" means the drawings for the Condominium, as defined in the Condominium Law, filed simultaneously with the submission of this Declaration for recording, as the same may be lawfully amended from time to time.

12. "Eligible holder of a first mortgage lien" means the holder of a valid recorded first mortgage on a Unit, which holder has given written notice to the Association stating the holder's name, address and Unit or Units to its mortgage.

13. "Limited Common Areas and Facilities" means those Common Areas serving exclusively one Unit, or more than one Unit, but less than all Units, the enjoyment, benefit or use of which are reserved to the lawful Occupants of that Unit or Units either in this Declaration, or by the Board, and is that portion of the Condominium Property constituting "limited common areas and facilities" of the Condominium under the provisions of the Condominium Law.

14. "Occupant" means a person or persons in possession of a Unit, regardless of whether that person is a Unit Owner.

15. "Person" means a natural individual, corporation, partnership, trustee, or other legal entity capable of holding title to real property.

16. "Trustee" and "Trustees" mean that person or those persons serving, at the time pertinent, as a Trustee or Trustees of the Association, and mean that same person or those persons serving in the capacity of a manager or managers of the Association, as defined in the Condominium Law.

17. "Unit" and "Units" mean that portion or portions of the Condominium Property described as a Unit or Units under Article V of this Declaration, and is that portion of the Condominium constituting a "Unit" or "Units" of the Condominium, under the provisions of the Condominium Law.

18. "Unit Owner" and "Unit Owners" mean that person or those persons owning a fee-simple interest in a Unit or Units, each of whom is also a "member" of the Association.

## THE PLAN

NOW, THEREFORE, Declarant hereby makes and establishes the following plan for Condominium ownership of this Condominium property under and pursuant to the Condominium Law.

## ARTICLE I

### THE LAND

A legal description of the land constituting the Condominium Property located in Lucas County, Ohio is attached hereto as Exhibit "A".

## ARTICLE II

### NAME

The name by which the Condominium shall be known is The Bluffs Plat 3, Lot 21 Condominium.

## ARTICLE III

### PURPOSES AND RESTRICTIONS

**SECTION 1 -- PURPOSES.** This Declaration is being made to establish separate individual parcels from the Condominium Property ("Units"), to which fee simple interests may be conveyed, for use for single-family residential living; to establish a Unit Owners' Association (the "Association") to administer the Condominium; to provide for the preservation of the values of Units and the Common Areas; to provide for an promote the benefit, enjoyment and well being of Unit Owners and Occupants; to administer and enforce the covenants, easements, charges and restrictions hereinafter set forth; and to raise funds through assessments to accomplish these purposes.

**SECTION 2 -- RESTRICTIONS.** The Condominium Property shall be subject to the following restrictions:

(a) **Unit Uses.** Except as otherwise specifically provided in this Declaration, no Unit shall be used for any purpose other than that of a single-family residence and purposes customarily incidental thereto. Notwithstanding the foregoing: (i) professional and quasi-professional Occupants may use a Unit as an auxiliary or secondary facility to an office established elsewhere; and (ii) an Occupant maintaining a personal or professional library, keeping personal business or professional records or accounts, or personal business or professional telephone calls or correspondence, in or from a Unit, is engaging in a use expressly declared customarily incidental to principal residential use and is not in violation of these restrictions.

(b) **Common Areas - Uses.** The Common Areas (except the Limited Common Areas) shall be used in common by Unit Owners and Occupants and their agents, servants, customers, invitees and licensees, in accordance with the purposes of access, ingress to, egress from, use, occupancy and enjoyment of Units; provided, however, that: (i) the Declarant may, from time to time, maintain a sign or signs on the Common Areas during the initial sales period advertising Units for sale; (ii) the Declarant or a Unit Owner may place or replace a heating and/or air-conditioning unit on the Common Areas or Limited Common Areas immediately adjacent to his Unit, at locations acceptable to the Board and Subject to such other reasonable rules and regulations regarding the same as the Board may adopt, provided such rules and regulations are uniformly applied (upon placement, such heating and/or air-conditioning equipment shall be part of the Unit which it serves); and (iii) except as specifically otherwise provided herein, no Common Areas shall be used for any purpose other than the health, safety, welfare, convenience, comfort, recreation or enjoyment of Unit Owners and Occupants, subject to such

rules and regulations as may from time to time be promulgated by the Board.

**(c) Limited Common Areas and Facilities - Uses.**

Those portions of the Common Areas described herein and shown on the Drawings as Limited Common Areas and shall be used and possessed exclusively by the Unit Owners and Occupants of the Unit or Units served by the same, as specified in this Declaration, subject to the restrictions on use of Common Areas and Limited Common Areas set forth in this Declaration and such rules and regulations as may from time to time be promulgated by the Board.

**(d) Visible Areas.** Nothing shall be caused or permitted to be hung or displayed on the outside or inside of windows or placed on the outside walls of a building or otherwise outside of a Unit, or any part thereof, or in or on a patio area, and no sign, awning, canopy, shutter or television or citizens' band or other radio antenna or transmitter, or any other device or ornament, shall be affixed to or placed upon the exterior walls or roof or any part thereof (except for heating and/or air-conditioning equipment at locations acceptable to the Board), unless authorized by the Board, and subject to such rules and regulations as the Board may adopt from time to time. All window treatments must be neutral in color to the exterior.

**(e) Nuisances.** No noxious or offensive activity shall be carried on in any Unit, or upon the Common Areas, nor shall either be used in any way or for any purpose which may endanger the health of or unreasonably disturb any Occupant.

**(f) Vehicles.** The Board may promulgate regulations restricting the parking of automobiles, inoperable vehicles, trucks, boats and recreational vehicles on the Common Areas, and Limited Common Areas, and may enforce such regulations or restrictions by levying fines, having such vehicles towed away, or taking such other action as it, in its sole discretion, deems appropriate. Without limiting the generality of the foregoing, unless specifically permitted by the Board, no vehicles may be parked upon the driveway areas located in front of the garages, except for temporary guest parking.

**(g) Sale and Leasing of a Unit.** There are no restrictions on the sale by any Unit Owner of his, her or its Unit and his, her or its undivided interest in the Common Areas.

The respective Units shall not be leased by the Unit Owners thereof for transient or hotel purposes, which shall be defined as (i) leasing for any period less than one hundred eight days (180) days, or (ii) rental of less than his, her or its entire Unit, or (iii) occupancy is for other than the contract lessee, his, her or its family and guests. This Article does not apply to the initial lease of any Unit by Declarant, its successors or assigns.



Unit Owners shall otherwise have the absolute right to lease the Unit and his, her or its interest in the Common Areas, Limited Common Areas and facilities, provided that said lease is made subject to the covenants and restrictions of this Declaration and further subject to the By-Laws of the Association, that the Unit Owner shall remain liable for his, her or its share of all common expenses and other assessments although he, she or it has leased his, her or its Unit and interest in the property, and shall further have the approval of the Board of Trustees of the Association, which approval shall not be unreasonably withheld.

(h) **Signs.** No sign of any kind shall be displayed to the public view on the Condominium Property except: (a) on the Common Areas, signs regarding and regulating the use of the Common Areas, provided they are approved by the Board; and (b) on the Common Areas, signs advertising the sale of Units by the Declarant, during the initial sales period.

(i) **Replacements.** Any buildings erected to replace an existing Building containing Units shall be of new construction, be of comparable size, design and construction to that replaced, and shall contain a like number of Units of comparable size to the Units in the building replaced. Except as specifically otherwise provided herein, there shall not be constructed or maintained on any portion of the Common Areas not presently devoted to residential buildings anything other than facilities for the common use of all the Units.

(j) **Structural Integrity.** Nothing shall be done in any Unit, or in, on, or to the Common Areas, which will impair or change the structural integrity of any improvement.

(k) **Building on Easements.** Within the easements for the installation and maintenance of utilities and drainage facilities no structure, planting or other material (except such as exist at the time of this Declaration) shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utility lines or which may change the direction of the flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easement areas. The utility facilities within the easement areas shall be subject to the right of the Association to maintain the same, and its right to delegate that right to a public authority or utility.

(l) **Animals.** Except as hereinafter provided, no animals, livestock or poultry of any kind shall be raised, bred or kept in any Unit or on the Common Areas. Notwithstanding the foregoing, household domestic pets, not bred or maintained for commercial purposes, may be maintained in a Unit, provided that: (i) no pet or animal shall be permitted in any portion of the Common Areas except on a leash (not longer than six (6) feet in length) maintained by a responsible person; (ii) the permitting of animals on the Common Areas shall be subject to such rules and regulations as the Board may from time to time promulgate, including, without limitation, the right to limit the size of such animals and the right to levy fines against persons who do

not clean up after their pets; and (iii) the right of an Occupant to maintain an animal in a Unit shall be subject to termination if the Board, in its full and complete discretion, determines that maintenance of the animal constitutes a nuisance.

(m) **Conveyances.** Each Unit shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions hereof. The undivided interest of a Unit in the Common Areas shall be deemed to be conveyed or encumbered with the Unit even though that interest is not expressly mentioned or described in the deed, mortgage or other instrument of conveyance or encumbrance. To enable the Association to maintain accurate records of the names and addresses of Unit Owners, each Unit Owner agrees to notify the Association in writing within five (5) days after an interest in that Unit Owner's Unit has been transferred to another person.



(n) **Discrimination.** No action shall at any time be taken by the Association or its Board which in any manner would discriminate against any Unit Owner in favor of another.

(o) **Architectural Control.** No building, fence, wall, sign, or other structure shall be commenced, erected or maintained upon the Condominium Property, or any part thereof, nor shall any exterior addition to or change or alteration therein be made, until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design, color and location in relation to surrounding structures and topography by the Board, or its designated representative. The Board of its designated representative must approve or disapprove such plans and specifications within thirty (30) days after they have been submitted to it.

## ARTICLE IV

### BUILDING DESCRIPTION

There is presently one (1) residential building (the "Building") containing presently a total of three (3) Units in the Condominium. The Building is of conventional frame construction with a poured concrete foundation, poured concrete slabs, a combination brick veneer and wood siding exterior, and an asphalt shingle roof. The Building is located as shown on the Drawings. In addition to the initial three (3) Units, the Declarant reserves the right to expand the Condominium Property to construct an additional five (5) units ("Additional Units") in those areas labeled "Areas Reserved for Future Expansion" on the Drawings. Metes and bounds descriptions for the Future Expansion Areas are set forth on Exhibit "C" attached hereto. The Additional Units or property (sometimes also called "Additional Property" herein) shall be similar in construction and aesthetics as the original three (3) Units. Provisions concerning the Additional Property that may be so added is set forth in Article XIX "Expandable Condominium Property" set forth below.

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## ARTICLE V

### UNITS

**SECTION 1 -- UNIT DESIGNATIONS.** Each of the Units is designated by a number on the Drawings where that Unit is located. The proper Unit designations for the Units are:

Initial Building -- Unit 2133, Unit 2135, and Unit 2137

#### **SECTION 2 -- COMPOSITION OF UNITS**

(a) **Units.** Each Unit consists of all of the space within the Building designated on the Drawings as being that Unit, that is bounded by the undecorated interior surfaces of the perimeter walls, the unfinished surface of the concrete slab or bottom floor if such Unit does not have a basement, and the unfinished interior surface of the roof deck, as projected, if necessary, by reason of structural divisions such as interior walls and partitions, to constitute a complete enclosure of space, and all improvements within that space. Without limiting the generality of the foregoing, a Unit shall include:

(1) The undecorated surfaces of, including paint, lacquer, varnish, wallpaper, tile and other finishing material applied to, the concrete slabs, or roof decks, and interior and perimeter walls and carpet.

(2) All windows, screens and doors, including storm doors and windows; if any, and including the frames, sashes and jambs and the space occupied thereby, and the hardware therefor.

(3) All fixtures and appliances located within the bounds of a Unit installed in and for the exclusive use of that Unit, commencing at the point of disconnection from the structural body of the Building and from utility pipes, lines or systems serving the entire Building or more than one (1) Unit thereof, including, without limiting the generality hereof, built-in cabinets, dishwashers, garbage disposal units, refrigerators, and stoves and hoods.

(4) All control knobs, switches, thermostats and electrical outlets and connections affixed to or projecting from the walls, floors and ceilings which service either the Unit or the fixtures located therein, together with the space occupied thereby.

(5) All space between interior walls, including the space occupied by structural and component parts of the Building and by utility pipes, wires, ducts and conduits.

(6) All plumbing, electric, heating, cooling and other utility or service lines, pipes, wires, ducts or conduits which serve either the Unit or the fixtures located therein, and which are located within the bounds of the Unit; excluding therefrom, however, all of the following items located within the bounds of that Unit:

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(i) Any structural element of the Building contained in all interior walls;

(ii) All vent covers, grills, plate covers, and other coverings of space which are not a part of a Unit as heretofore defined; and

(iii) All plumbing, electric, heating, cooling and other utility or service lines, pipes, slump pumps and accessories thereto, wires, ducts and conduits which serve any other Unit.

(7) Any heating and/or air-conditioning equipment, wherever located, and not designated herein as a Limited Common Area presently installed or installed at a later date, for the exclusive use of that unit.

(b) **Unit Sizes and Locations.** The location of each Unit is shown on the Drawings. The approximate area of each Unit interior is as follows:

#### Square Footage

Unit	Living Space (Including Basement)
2133	2068.4
2135	2081.8
2137	2159.9

### ARTICLE VI

#### COMMON AND LIMITED COMMON AREAS

**SECTION 1 -- COMMON AREAS - DESCRIPTION.** All of the Condominium Property, including all of the land and all improvements thereon and appurtenances thereto, **EXCEPT** those portions labeled or described herein or in the Drawings as a part of a Unit are Common Areas. The Common Areas shall remain undivided. No Unit Owner may waive or release any right to the Common Areas. Further, the undivided interest in the Common Areas shall not be separated from the Unit to which it appertains.

**SECTION 2 -- LIMITED COMMON AREAS - DESCRIPTION.** Those portions of the Common Areas that are labeled or designated "Limited Common Yard Areas" on the Drawings, are Limited Common Areas and consist of certain patio, sidewalk, driveway and entry areas, and the air-conditioning units or apparatus servicing a particular Unit but located outside thereof, and which are reserved for the exclusive use of the respective Units which they are designated to serve.

**SECTION 3 -- PERCENTAGE OF OWNERSHIP.** The par value of each Unit, and the percentage interest of each Unit in the Common Areas (which is in proportion to the par value) is as follows:

Unit	Par Value (Points) and % Interest in Common Areas
2133	33 1/3
2135	33 1/3
2137	33 1/3

The total par value (points) and percentage interest in the Common Areas equals 100.0.

## ARTICLE VII

### UNIT OWNERS ASSOCIATION

**SECTION 1 -- ESTABLISHMENT OF ASSOCIATION.** The Association has been formed as an unincorporated non-profit association to be and to serve as the Unit Owners Association of the Condominium. The Declarant is presently the sole member of the Association.

**SECTION 2 -- MEMBERSHIP.** Membership in the Unit Owners Association shall be limited to the Unit Owners, and every person or entity who is a record owner of a fee or undivided fee-simple interest in a Unit, or a record land installment contract interest as vendee, is a Unit Owner and a member of the Association. 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 Unit, and transfer of a Unit shall automatically transfer membership to the transferee.

**SECTION 3 -- VOTING RIGHTS AND QUORUM.** Each Unit Owner shall be entitled to a vote equal to each Unit Owner's percentage ownership in the Common Areas and facilities previously described in Article VI, Section 3. The Unit Owners present, in person or by proxy, at any duly called and noticed meeting of Unit Owners, shall constitute a quorum for such meeting.

**SECTION 4 -- BOARD OF TRUSTEES.** The initial Trustees of the Board shall be three individuals chosen by the Declarant, or such other person or persons as may from time to time be substituted by Declarant. No later than the time that Units to which twenty-five percent (25%) of the undivided interest in the Common Areas appertain have been sold and conveyed by the Declarant, the Unit Owners shall meet, and from and after that date there shall be three (3) Trustees. The Unit Owners other than the Declarant shall elect one (1) of the Trustees at such meeting, and the Declarant shall designate the other Trustee, which three (3) Trustees shall serve until the meeting described in the paragraph next following. For purposes of computing the undivided interest referred to in this Article, those interests shall be computed by comparing the number of Units sold and conveyed to the maximum number of Units that may be created. For purposes of determining the number of Trustees to be elected by the Unit Owners, lease options shall not be considered sales until exercised.

Upon the happening of the earlier (a) three (3) years from the date of the establishment of the Association, or (b) thirty (30) days after the sale and conveyance to purchasers in good faith and for value, of Units to which seventy-five percent (75%) of the undivided interests in the Common Areas appertain, the Association shall meet and all Unit Owners, including the Declarant, shall elect three (3) Trustees to replace all of the Trustees previously elected or designated by the Unit Owners or Declarant, respectively, and elect new officers of the Association. All such Trustees must be both Owners and Occupants of a Unit. The terms of office of the three (3) Trustees shall be three (3) year terms.

Notwithstanding the foregoing, Declarant shall have the right at any time to waive its right to select one (1) or more of the Trustees or to vote in any election of Trustees. If the Declarant waives the right to select one (1) or more Trustees, the membership shall meet and elect the members of the Board otherwise to have been selected by Declarant.



**SECTION 5 -- AUTHORITY.** The Board shall have all authority to manage, maintain, repair, replace, alter and improve the Common Areas and assess and collect funds for the payment thereof, and do all things, and exercise all rights provided by law for a Condominium Association, this Declaration, the By-Laws, or the Articles, not specifically reserved to Unit Owners.

**SECTION 6 -- DELEGATION OF AUTHORITY; PROFESSIONAL MANAGEMENT.** The Board may delegate all or any portion of its authority to discharge its responsibilities to a managing agent. This delegation of authority and responsibility to a managing agent may be evidenced by one or more management contracts which may provide for the payment of reasonable compensation to such managing agent as a common expense, provided, however, that any agreement for professional management shall be terminable by the Association for cause on thirty (30) days written notice; shall be terminable by either party, without penalty, on ninety (90) days written notice; shall not exceed one (1) year unless renewed by agreement of the parties for successive one (1) year periods; and shall be bona fide and commercially responsible to the Unit Owners at the time entered into under the circumstances then prevailing.

Subject to the foregoing, nothing contained herein shall preclude Declarant, or any other entity designated by Declarant, from being employed as managing agent. The managing agent, or the Board, if there is no managing agent, shall have the authority to enter into contracts with Declarant or one or more other firms or corporations affiliated with Declarant for the providing of management, maintenance and repair services, provided the same are bona fide and commercially reasonable to the Unit Owners at the time entered into under the circumstances then prevailing and are terminable by the Association, without cause and without penalty, on ninety (90) days written notice.

If the Board elects to have professional management, then the decision by the Board to terminate such professional management and assume self management, shall not be made without the consent of eligible holders of first mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to such mortgages appertain.

## **ARTICLE VIII**

### **AGENT FOR SERVICE**

The name of the person to receive service of process for the Association, and that person's residence or place of business, which is in the county where the Condominium is situated, is:

Mark A. Nowakowski

So long as Declarant owns a Unit in the Condominium.

## **ARTICLE IX**

### **MAINTENANCE AND REPAIR**

**SECTION 1 -- ASSOCIATION RESPONSIBILITY.** Except as otherwise provided, the Association shall maintain and repair the Common Areas, including, and not limited to, utility facilities serving more than one (1) Unit, utility lines in the Common Areas, lawns, shrubs, trees, walkways, and all buildings and structures which are a part of the Common Areas. The Association may also elect to provide snow removal service for the Limited Common Areas as one of its Association expenses.



**SECTION 2 -- INDIVIDUAL RESPONSIBILITY.** Each Unit Owner shall repair and maintain the Unit or Units, and all components thereof, owned by that Unit Owner, any designated Limited Common Area patio, sidewalk, driveway and entry areas. Without limiting the generality of the foregoing, this repair and maintenance responsibility shall include repair, maintenance and cleaning of the limited common patio, sidewalk, driveway and entry areas. In the event a Unit Owner shall fail to keep such areas clean, or in the event the need for maintenance or repair of any part of the Common Areas or Limited Common Areas is caused by the negligent or intentional act of any Unit Owner or Occupant, and the cost of repair is not covered by insurance, the cost of such maintenance and repair shall constitute a special individual Unit assessment, as hereinafter defined, on the Unit owned by such Unit Owner. The determination that such maintenance or repair is necessary, or has been caused, shall be made by the Board.

## **ARTICLE X**

### **UTILITY SERVICES**

Each Unit Owner by acceptance of a deed to a Unit agrees to pay for utility services separately metered or separately charged by the utility company to that Unit. In the event any utility service is not separately metered or separately charged, the cost thereof shall be prorated among the Unit Owners of those Units served by the same, in the proportion of their respective interests in the Common Areas.

## **ARTICLE XI**

### **INSURANCE: LOSSES AND BONDS**

**SECTION 1 -- FIRE AND EXTENDED COVERAGE INSURANCE.** The Board shall have the authority to and shall obtain insurance for all buildings, garages and structures now or at any time hereafter constituting a part of the Common Areas against loss or damage by fire, lightning, and such other hazards as are ordinarily insured against by fire and extended coverage policies issued in the locale of the Condominium Property (including flood insurance, unless the Association is advised that the cost of such insurance is too high in light of the minimal risk from such loss, whether because of location or other factors) in amounts at all times sufficient to prevent the Unit Owners from becoming co-insurers under the terms of any applicable co-insured clause or provision and not less than the actual replacement cost of such buildings and structures, exclusive of the cost of foundations, footings and excavations, as determined from time to time by the insurer. This insurance:

(a) May provide coverage for built-in or installed improvements, fixtures and equipment, and shall provide for coverage of windows and doors and the frames, sashes, jambs and hardware therefor, even though these improvements are parts of Units;

(b) Shall be obtained from an insurance company authorized to write such insurance in the State of Ohio which has a financial rating of Class V, has a general policy holder's rating of at least A, as determined by the then latest edition of Best's Insurance Reports, or its successor guide;

(c) Shall be written in the name of the Association for the use and benefit of the Unit Owners;

(d) Shall contain or have attached the standard mortgagee clause commonly accepted by institutional mortgage investors in the area in which the Condominium

Property is located, which must be endorsed to provide that any proceeds shall be paid to the Association and first mortgagees as their interest may appear; and

(e) Unless otherwise determined by the Board, shall contain a waiver of subrogation of rights by the carrier as to the Association, its officers and Trustees, and all Unit Owners.

The cost of this insurance shall be a common expense, payable by the Association, provided, however, if the Board so elects, each Unit Owner shall, promptly upon receipt of an invoice for his, her or its share of the premium for that insurance, pay that Unit Owner's respective share of the premium directly to the insurance company issuing that insurance. A Unit Owner's share shall be determined by multiplying the premium being apportioned by that Unit Owner's percentage interest in the Common Areas. If such premium is not paid by the Unit Owner, it shall constitute a special individual Unit Assessment, as hereinafter defined. Provided, however, that said fire and extended coverage insurance shall be prorated among only those Units actually constructed and so insured which shall be determined by multiplying the premium being apportioned by a fraction, the numerator of which is that Unit Owner's percentage interest in the Common Areas and the denominator of which is the total of all of the then constructed Units' percentage interest in the Common Areas which are so insured.

**SECTION 2 -- LIABILITY INSURANCE.** The Association shall obtain and maintain a comprehensive policy of public liability insurance covering all of the Common Areas, insuring the Association, the Trustees, and the Unit Owners and Occupants, with such limits as the Board may determine, covering claims for personal injury and/or similar construction, location and use, as determined by the Board. This insurance shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Unit Owner or Occupant because of negligent acts of the Association, the Board, or other Unit Owners or Occupants.

**SECTION 3 -- OTHER ASSOCIATION INSURANCE.** In addition, the Board may purchase and maintain contractual liability insurance, Trustees' and officers' liability insurance, and such other insurance as the Board may determine.

**SECTION 4 -- UNIT OWNER'S INSURANCE.** Any Unit Owner or Occupant may carry such insurance in addition to that provided by the Association pursuant hereto as that Unit Owner or Occupant may determine, subject to the provisions hereof, and provided that no Unit Owner or Occupant may at any time purchase individual policies of insurance against loss by fire or other casualty covered by the insurance carried pursuant hereto by the Association.

In the event any Unit Owner or Occupant violates this provision, any diminution in insurance proceeds resulting from the existence of such other insurance shall be chargeable to the Unit Owner who acquired such other insurance, who shall be liable to the Association to the extent of any diminution and/or loss of proceeds, without limiting the foregoing, a Unit Owner or Occupant may obtain insurance against liability for events occurring within a Unit, losses with respect to personal property and furnishings, and losses to improvements within a Unit owned by the Unit Owner or Occupant, provided that if the Association obtains insurance for permanent improvements and built-in fixtures and equipment, then the insurance obtained by the Unit Owner with respect to improvements within the Unit shall be limited to the type and nature of coverage commonly referred to as "tenants' improvements and betterment". All such insurance separately carried shall contain a waiver of subrogation rights by the carrier as to the Association, its officers and Trustees, and all other Unit Owners and Occupants.

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**SECTION 5 -- SUFFICIENT INSURANCE.** In the event the improvements forming a part of the Common Areas or any portion thereof shall suffer damage or destruction from any cause or peril insured against and the proceeds of any policy or policies insuring against such loss or damage and payable by reason thereof shall be sufficient to pay the cost of repair or restoration or reconstruction, then such repair, restoration or reconstruction shall be undertaken by the Association and the insurance proceeds shall be applied by the Board in payment therefor; provided, however, that in the event, within sixty (60) days after such damage or destruction, the Unit Owners and eligible holders of first mortgages, if they are entitled to do so pursuant to the provisions of Section 1 of Article XII hereof, shall elect to withdraw the Condominium Property from the provisions of this Declaration, then such repair, restoration or reconstruction shall not be undertaken.

**SECTION 6 -- INSUFFICIENT INSURANCE.** In the event the improvements forming a part of the Common Areas or any portion thereof shall suffer damage or destruction from any cause or peril which is not insured against, or, if insured against, the insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration or reconstruction, then, unless the Unit Owners and eligible holders of first mortgages, if they are entitled to do so pursuant to the provisions of Article XII hereof, shall, within sixty (60) days after such damage or destruction, elect not to make such repair, restoration or reconstruction, the Association shall make repairs, restoration or reconstruction of the Common Areas so damaged or destroyed, at the expense (to the extent not covered by insurance) of all Unit Owners in proportion to their property damage. This insurance shall include protection against such risks as are customarily covered with respect to developments respective interests in the Common Areas. Should any Unit Owner refuse or fail after reasonable notice to pay that Unit Owner's share of such cost in excess of available insurance proceeds, the amount so advanced by the Association shall be assessed to such Unit Owner and such assessments shall have the same force and effect and, if not paid, may be enforced in the same manner as herein provided for the nonpayment of assessments.

**SECTION 7 -- FIDELITY BONDS.** The Board shall have the right and option of obtaining fidelity bond coverage naming the Association funds in an amount deemed adequate by the Board.

## **ARTICLE XII**

### **DAMAGE: RESTORATION: REHABILITATION AND RENEWAL**

**SECTION 1 -- RESTORATION OF SUBSTANTIAL DAMAGE OR DESTRUCTION.** In the event of substantial damage to or destruction of all Units in a Building, the Association may, with the consent of Unit Owners entitled to exercise not less than seventy-five percent (75%) of the voting power of Unit Owners, determine not to repair or restore such damage or destruction. In such an event, all of the Condominium Property shall be sold as upon partition.

In the event of an election not to repair or restore substantial damage or destruction, the net proceeds of insurance paid by reason of such damage or destruction shall be added to the proceeds received from the sale as upon partition, and the total amount distributed among the Owners of the Units and the eligible holders of their respective first mortgage liens (as their interests may appear), in proportion to their percentage interests in Common Areas.

**SECTION 2 -- REHABILITATION AND RENEWAL.** The Association, with the consent of the Unit Owners entitled to exercise not less than seventy-five percent (75%) of the voting power of Unit Owners, may determine that the Condominium is obsolete in whole or in part and select to have the same renewed and rehabilitated. The Board shall thereupon proceed with such renewal and rehabilitation and the cost shall be a common expense.

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## ARTICLE XIII

### CONDEMNATION

In the event any unit or the Common Areas, or any portion thereof, are made the subject matter of any condemnation or against eminent domain proceedings or are otherwise sought to be acquired by a condemning authority, the holders of first mortgages on the interests taken will have first priority, to the extent of their respective interests, with respect to distribution to such Unit of the net proceeds of any award or settlement. Each Unit Owner shall give the holder of a first mortgage on the Owner's unit timely written notice of such proceeding or proposed acquisition.

## ARTICLE XIV

### GRANTS AND RESERVATIONS OR RIGHTS AND EASEMENTS

**SECTION 1 -- EASEMENTS OF ENJOYMENT; LIMITATIONS.** Every Unit Owner shall have a right and easement of enjoyment in, over and upon the Common Areas and a right of access to and from his, her or its Unit, which rights and easements shall be appurtenant to and shall pass with the title to a Unit, subject to the right of the Board to make reasonable rules and regulations concerning the use and management of the Common Areas, provided that no such rule or regulations shall limit or prohibit the right of ingress to and egress from a Unit. Any Unit Owner may delegate that Unit Owner's right of enjoyment to the Common Areas and to ingress to and egress from a Unit to the members of that Unit Owner's family and to Occupants.

**SECTION 2 -- RIGHT OF ENTRY FOR REPAIR, MAINTENANCE AND RESTORATION.** The Association shall have a right of entry and access to, over, upon and through all of the Condominium Property, including each Unit, to enable the Association to perform its obligations, rights and duties pursuant hereto with regard to maintenance, repair, restoration and/or servicing of any items, things or areas of or in the Condominium Property.

**SECTION 3 -- EASEMENTS FOR ENCROACHMENTS.** Each Unit and the Common Areas shall be subject to easements for encroachments on any other Unit and upon the Common Areas created or arising by reason of overhangs; or by reason of deviations in construction, reconstruction, or repair; or by reason of shifting, settlement, or movement of the structures; or by reason of errors in the Drawings. Valid easements for these encroachments and for the maintenance of same, so long as the encroaching structures remain, shall and do exist.

**SECTION 4 -- EASEMENT FOR SUPPORT.** Every portion of a Building or utility line or any improvement on any portion of the Condominium Property contributing to the support of another building, utility line or improvement on another portion of the Condominium Property shall be burdened with an easement of support for the benefit of all other such buildings, utility lines, improvements and other portions of the Condominium Property.

**SECTION 5 -- EASEMENTS FOR UTILITIES.** There is hereby created upon, over and under all of the Condominium Property, easements to the Association for ingress to and egress from, and the installation, replacing, repairing and maintaining of, all utilities including, but not limited to, water, sewer, gas, telephone electricity and cable television. By these easements, it shall be expressly permissible for the providing utility company to construct and maintain the necessary poles and equipment, wires, circuits and conduits on, above, across and under the Condominium Property, so long as such poles, equipment, wires, circuits and conduits do not unreasonably interfere with the use and enjoyment of the Condominium Property. Should any utility company

furnishing a service request a specific easement by separate recordable document, the Board shall have the right to grant such easement without conflicting with the terms hereof.

**SECTION 6 -- EASEMENT FOR SERVICES.** A nonexclusive easement is hereby granted to all police, fire fighters, ambulance operators, postal employees, delivery service personnel, garbage and trash removal personnel and all similar persons, and to or the local governmental authorities an the Association, but not to the public in general, to enter upon the Common Areas in the performance of their duties.

**SECTION 7 -- POWER OF ATTORNEY.** Each Unit Owner, by acceptance of a deed to a Unit, hereby irrevocably appoints Declarant his, her or its attorney-in-fact, to execute, deliver, acknowledge and record, for an in the name of such Unit Owner, such deeds of easement and other instruments as may be necessary or desirable, in the sole discretion of the Board's authorized representative, to further establish or effectuate the foregoing easements. This power is for the benefit of each and every Unit Owner, the Association, and the real estate to which it is applicable, runs with the land, and is coupled with an interest.

**SECTION 8 -- GENERAL.** The easements and grants provided herein shall in no way affect any other recorded grant or easement.

## **ARTICLE XV**

### **ASSESSMENT AND ASSESSMENT LIENS**

**SECTION 1 -- TYPES OF ASSESSMENTS.** The Declarant for each Unit within the Condominium, and each Unit by acceptance of a deed to a Unit (whether or not it shall be so expressed in such deed), is deemed to covenant and agree to pay to the Association: (1) annual operating assessments; (2) special assessments for capital improvements; and (3) special individual Unit assessments, all of such assessments to be established and collected as hereinafter provided.

**SECTION 2 -- PURPOSE OF ASSESSMENTS.** The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of Unit Owners and Occupants.

#### **SECTION 3 -- ELEMENTS - APPORTIONMENT: DUE DATES.**

##### **(a) Annual Operating Assessments.**

(1) Prior to the beginning of each fiscal year of the Association, the Board shall estimate and prorate among the Units on the basis of the interest of each Unit in the Common Areas, common expenses of the Association, consisting of the following:

a. The estimated next fiscal year's cost of the maintenance, repair, and other services described in this Declaration;

b. The estimated next fiscal year's costs for insurance and bond premiums to be provided pursuant hereto and to be paid by the Association; provided that the fire and extended coverage insurance shall be prorated among only those units actually constructed and so insured;



c. The estimated next fiscal year's costs for utility services not separately metered;

d. The estimated amount required to be collected to maintain a general operating reserve to assure availability of funds for normal operations of the Association, in an amount deemed appropriate by the Board, including the establishment, by requirement of prepayment of assessments or other means deemed appropriate by the Board, of a working capital reserve for the initial months of the project's operation equal to at least two (2) months' estimated common operating expenses;

e. An amount adequate by the Board to maintain a reserve for the cost of unexpected repairs and replacements of capital improvements or for the repair and replacement of major improvements or for the repair and replacement of major improvements for which cash reserves over a period of time in excess of one (1) year should be established; and

f. The estimated next fiscal year's costs for the operation, management and administration of the Association, including, but not limited to, fees for property management, fees for legal and accounting services, costs of mailing, postage, supplies and materials for operating the Association, and the salaries, wages, payroll charges and other costs to perform these services, and any other costs constituting common expenses not otherwise herein specifically excluded.

(2) The Board shall thereupon allocate to each Unit Owner his, her or its respective share of all of these items, prorated as hereinbefore set forth, and thereby establish the annual operating assessment for each separate Unit. For administrative convenience, any such assessment may be rounded to the nearest whole dollar.

(3) The annual operating assessment shall be payable in advance, in equal monthly installments, provided that nothing contained herein shall prohibit any Unit Owner from prepaying assessments annually, or in semi-annual or quarterly installments. The due dates of any such installments shall be established by the Board and, unless otherwise provided, the Association shall collect on or before the first day of each month from those who own the Unit, one-twelfth (1/12th) of the annual operating assessment for that Unit.

(4) If the amounts so collected are at any time insufficient to meet all obligations for which those funds are to be used, the deficiency shall be assessed by the Board among the Units on the same basis as heretofore set forth.



(5) If assessments collected during any fiscal year are in excess of the funds necessary to meet the anticipated expenses for which the same have been collected, the excess shall be allocated and paid into the reserve fund applicable to that type of expense, and shall in no event be deemed profits nor available, except on dissolution of the Association, for distribution to Unit Owners.

**(b) Special Assessments for Capital Improvements.**

(1) In addition to the annual operating assessments hereinbefore authorized, the Board of Trustees may levy, in any fiscal year, special assessments to construct, reconstruct or replace capital improvements on the Common Areas to the extent that reserves therefor are insufficient, provided, that new capital improvements not replacing existing improvements shall not be constructed nor funds assessed therefore without the prior consent of Unit Owners exercising no less than seventy-five percent (75%) of the voting power of Unit Owners and the consent of eligible holders of first mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to mortgages held in eligible holders of mortgages appertain.

(2) Any such assessment shall be prorated among all Units in proportion to such Units' respective percentage interests in the Common Areas, and shall become due and payable on such date or dates as the Board determines following written notice to the Unit Owners.

**(c) Special Individual Assessments.**

(1) The Board may levy an assessment against an individual Unit, or Units, to reimburse the Association for those costs incurred in connection with that Unit or Units, pursuant to the provisions of Article IX, Section 2 hereof (Individual Responsibility), Article XI, Section 1 hereof (Fire and Extended Coverage), or Article XVIII, Section 2 hereof (Enforcement). Any such assessment shall become due and payable on such date as the Board determines and gives written notice to the Unit Owners subject thereto. Additionally, during the first years of the Condominium's existence, and until such time as real estate taxes and assessments are split into separate tax bills for each Unit, the Association shall pay the real estate taxes and assessments attributable to the Condominium Property and shall assess each Unit Owner for his, her or its share of such real estate taxes and assessments as a Special Individual Unit Assessment. The share of those taxes and assessments attributable to a Unit shall be computed by multiplying the total taxes and assessments for all of the Condominium Property by the percentage interest in Common Areas attributable to that Unit. The calculation by the Association of the Units' share of taxes and assessments shall be binding upon all Unit Owners.

**SECTION 4 -- EFFECTIVE DATE OF ASSESSMENT.** Any assessment created pursuant hereto shall be effective; provided it is created as provided herein, if written notice of the amount thereof is sent by the Board to the Unit Owner subject thereto at least ten (10) days prior to the due date thereof, or the due date of the first installment

thereof, if to be paid in installments. Written notice mailed or delivered to a Unit Owner's Unit shall constitute notice to that Unit Owner, unless the Unit Owner has delivered written notice to the Board of a different address for such notices, in which event the mailing of the same to that designated address shall constitute notice to that Unit Owner.

**SECTION 5 -- EFFECT OF NONPAYMENT OF ASSESSMENT; REMEDIES OF THE ASSOCIATION.**

(a) If any assessment or any installment of any assessment is not paid within ten (10) days after the same has become due, the entire unpaid balance of the Assessment shall, at the option of the Board, without demand or notice, forthwith become due and payable, and bear interest thereafter at the rate of eight percent (8%) per annum.

(b) Annual operating and both types of special assessments, together with interest and costs, shall be a charge and a continuing lien in favor of the Association upon the Unit against which each such assessment is made.

(c) At any time after an assessment levied pursuant hereto remains unpaid for ten (10) or more days after the same has become due and payable, a certificate of lien for the entire unpaid balance of the assessment, interest and costs, may be filed with the Recorder in the County in which the Condominium is located, pursuant to authorization given by the Board. The certificate shall contain a description of the Unit against which the lien exists, the name or names of the record owner or owners thereof, and the amount of the unpaid portion of the assessments, and shall be signed by the president of the Association.

(d) The lien provided for herein shall remain valid for a period of five (5) years from the date a certificate of lien was duly filed therefor, unless sooner released or satisfied in the same manner provided by law in the State of Ohio for the release and satisfaction of mortgages on real property, or discharged by the final judgment or order of a court in an action brought to discharge the lien.

(e) Any Unit Owner who believes that an assessment chargeable to his, her or its Unit (for which a certificate of lien has been filed by the Association) has been improperly charged against that Unit, may bring an action in the Court of Common Pleas in the County in which the Condominium is located, for the discharge of that lien. In any such action, if it is finally determined that all or a portion of the assessment has been improperly charged to that Unit, the court shall make such order as is just, which may provide for a discharge of record of all or a portion of that lien.

(f) Each such assessment together with interest and costs shall also be the joint and several personal obligation of the Unit Owners who owned the Unit at the time when the assessment fell due. The obligation for delinquent assessments, interest and costs shall not be the personal obligation of that Owner or Owners' successor or successors in title unless expressly assumed by the successor or



successors, provided, however, that the right of the Association to a lien against that Unit or to foreclose any lien thereon for the delinquent assessments, interest and costs, shall not be impaired or abridged by reason of the transfer, but shall continue unaffected thereby.

(g) The Association, as authorized by the Board, may file to secure payment of the entire unpaid balance of a delinquent assessment, interest and costs, and bring an action at law against the Owner or Owners personally obligated to pay the same, or an action to foreclose the lien, or any one or more of these. In any such foreclosure action, the Owner or Owners affected shall be required to pay a reasonable rental for that Unit during the pendency of such action, and the Association as Plaintiff in any such action shall be entitled to become a purchaser at the foreclosure sale. In any such action, interest and costs of such action (including attorneys' fees) shall be added to the amount of any such assessment, to the extent permitted by Ohio law.

(h) No Owner may waive or otherwise escape liability for the assessments provided for in this Declaration by non-use of the Common Areas, or by abandonment of his, her or its Unit.

**SECTION 6 -- SUBORDINATION OF THE LIEN TO FIRST MORTGAGE.** The lien of the assessments provided for herein shall be subject and subordinate to the lien of any duly executed first mortgage on a Unit recorded prior to that date on which such lien of the Association arises, and any holder of such first mortgage which comes into possession of a Unit pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed or assignment in lieu of foreclosure, and any purchaser at a foreclosure sale, shall take the property free of any claims for unpaid assessments or charges against the mortgaged Unit which become payable prior to the time such holder or purchaser took title to that Unit.

**SECTION 7 -- CERTIFICATE REGARDING ASSESSMENTS.** The Board shall, upon demand, for a reasonable charge, furnish a certificate signed by the president, secretary or other designated officer of the Association, setting forth whether the assessments on a specified Unit have been paid. This certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

## **ARTICLE XVI**

### **NOTICES TO MORTGAGEES**

Any holder of insurer of a first mortgage, upon written request to the Association (which request states the name and address of such holder or insurer and the Unit number), shall be entitled to timely written notice by the Association of:

1. Any proposed amendment of the Condominium Declaration, Articles, By-Laws, or Drawings, effecting a change in (a) the boundaries of any Unit; (b) the undivided interest in the Common Areas appertaining to any Unit or the liability for common expenses appertaining to any Unit; or (c) the purposes to which any Unit or the Common Areas are restricted;

2. Any proposed termination of the Condominium as a condominium regime;

3. Any condemnation or eminent domain proceeding affecting the Condominium Property or any part thereof, of which the Board obtains notice;

4. Any significant damage or destruction to the Common Areas;

5. Any decision by the Association not to restore substantial damage or destruction;

6. Any decision by the Association to renew or rehabilitate the Condominium Property;

7. Any decision by the Association to construct new capital improvements not replacing existing improvements;

8. Times and places of Unit Owners' meetings; and

9. Any default under the Declaration, Articles or By-Laws which gives rise to a cause of action against a Unit Owner whose Unit is subject to the mortgage of such holder or insurer, where the default has not been cured in sixty (60) days.

## ARTICLE XVII

### AMENDMENTS

SECTION 1 -- POWER TO AMEND. Except as hereinafter provided, amendment of this Declaration (or the Drawings, the By-Laws or Articles) shall require (a) the consent of Unit Owners exercising not less than seventy-five percent (75%) of the voting power of Unit Owners, and (b) shall be binding upon only such eligible holders of first mortgages on any of the Units who consent to same in writing. Notwithstanding the foregoing:

(a) The consent of all Unit Owners shall be required for any amendment affecting a change in:

(i) the boundaries of any Unit;

(ii) The undivided interest in the Common Areas appertaining to a Unit or the liability for common expenses appertaining thereto;

(iii) The number of votes in the Association appertaining to any Unit; or

(iv) The fundamental purposes to which any Unit or the Common Areas are restricted.

(b) The consent of Unit Owners exercising not less than seventy-five percent (75%) of the voting power of Unit Owners shall be required to terminate the Condominium; and



(c) In any event, Declarant reserves the right and power, and each Unit Owner by acceptance of a deed to a Unit is deemed to and does give and grant to Declarant a power of attorney, which right and power is coupled with an interest and runs with the title to a Unit and is irrevocable (except by Declarant), for a period of three (3) years from the date hereof, to amend this Declaration (and the By-Laws and Articles), to the extent necessary to conform to the requirements then governing the purchase or insurance of mortgages by The Mortgage Corporation, Federal National Mortgage Association, Government National Mortgage Association, Mortgage Guaranty Insurance Corporation, the Federal Housing Administration, the Veterans Administration, or any other such agency; provided that the appropriate percentage (as described elsewhere herein) of eligible holders of first mortgage liens is obtained; and further provided that if there is a Unit Owner other than the Declarant, the Declaration shall not be amended to increase the scope or the period of control of the Declarant.

**SECTION 2 -- METHOD TO AMEND.** An amendment to this Declaration (or the Drawings or the By-Laws), adopted with the consistent hereinbefore provided, in a writing executed with the same formalities as this Declaration by two (2) officers of the Association and containing a certification that the amendment was duly adopted in accordance with the foregoing provisions, shall be effective upon the filing of the same with the Recorder in the County in which the Condominium is located.

## **ARTICLE XVIII**

### **GENERAL PROVISIONS**

**SECTION 1 -- COVENANTS RUNNING WITH THE LAND.** The covenants, conditions, restrictions, easements, reservations, liens and charges created hereunder or hereby shall run with and bind the land, and each part thereof, and shall be binding upon and inure to the benefit of all parties having any right, title or interest in or to all or any part of the Condominium Property, and the Association, and their respective heirs, executors, administrators, successors and assigns.

**SECTION 2 -- ENFORCEMENT.** In addition to any other remedies provided in this Declaration, Declarant, the Association, and each Unit Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens and charges set forth herein or in the By-Laws or now or hereafter imposed by or through the Association's rules and regulations. Failure by Declarant, the Association or by any Unit Owner to proceed with such enforcement shall in no event be deemed a waiver of the right to enforce at a later date the original violation or a subsequent violation, nor shall the doctrine of laches nor any statute of limitations bar the enforcement of any such restriction, condition, covenant, reservation, easement, lien or charge. Further, the Association and each Unit Owner shall have rights of action against each other and against the Association for failure to comply with the provisions of the Declaration, By-Laws, Articles, rules and regulations, or applicable law, or with respect to decisions made pursuant to authority granted thereunder, and the Association shall have the right to assess reasonable charges against a Unit Owner who fails to comply with the same, including charges for the costs of enforcement and arbitration.

**SECTION 3 -- SEVERABILITY.** Invalidation of any one or more of these covenants, conditions, restrictions or easements by judgment or court order shall in no way affect any other provisions, which provisions shall remain in full force and effect. In the event any language of this Declaration conflicts with mandatory provisions of Ohio

statutory law, the statutory requirements shall prevail and the conflicting language shall be deemed to be invalid and void, provided that such invalidity shall in no way affect any other provisions of this Declaration, which provisions shall remain in full force and effect.

**SECTION 4 -- GENDER AND GRAMMAR.** The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations, partnerships, men or women, shall in all cases be assumed as though in such case fully expressed.

**SECTION 5 -- CAPTIONS.** The captions of the various provisions of this Declaration are not part of the context hereof, but are merely labels to assist in locating the various provisions hereof.

**SECTION 6 -- DEPOSITS.** Unless otherwise agreed to in writing, deposits made by buyers for the purchase of Units from the Declarant will be held in trust or escrow until returned to or credited to the buyers or forfeited to the Declarant. If a deposit of Two Thousand Dollars (\$2,000.00) or more is held for more than ninety (90) days, interest at the rate of four percent (4%) per annum for any period exceeding ninety (90) days shall be credited to the buyers at settlement or upon return made to the buyers, or added to any amounts retained by the Declarant in the event of breach by the buyers. Deposits held in trust or escrow pursuant to sales by Declarant or its agent shall not be subject to attachment by creditors of the Declarant of the buyers.

**SECTION 7 -- ASSOCIATION CONTROL.** Except in its capacity as a Unit Owner of unsold Units, the Declarant, or any agent of the Declarant, will not retain a property interest in any of the Common Areas after control of the Condominium Development is assumed by the Unit Owners Association. The Owners of the Condominium Units that have been sold by the Declarant or its agent will assume control of the Common Areas and of the Association as prescribed in Division (C) of Section 5311.08 of the Ohio Revised Code (see Article VII, Section 4 of this Declaration). Neither the Unit Owners Association nor the Unit Owners will be subject to any management contract or agreement executed prior to the assumption of control of the Association by Unit Owners as described in the preceding sentence for more than one (1) year subsequent to that assumption of control, unless such a contract or agreement is renewed by a vote of the Unit Owners pursuant to the By-Laws, as required by Section 5311.08 of the Ohio Revised Code. Any agreement entered into by the Association while the Declarant has control of the Association must be terminable by the Association, without penalty, upon not more than ninety (90) days notice to the other party of such agreement. The Declarant will assume the rights and obligations of the Unit Owner in its capacity as Owner of Condominium Units not yet sold, including, without limitation, the obligation to pay common expenses attaching to such Units, from the date this Declaration is filed for record.

**SECTION 8 -- LIMITED WARRANTY.** Following are the limited warranties (and limitation thereon) which the Declarant gives to the buyers, which are not enforceable by the buyers unless and until the sale of the Units to the buyers is closed.

**A. Units.** Except as provided in subparagraph C below, the Declarant warrants to provide and pay for the full cost of labor and materials for any repair or replacement of structural, mechanical, and other elements pertaining to the Unit, occasioned or necessitated by a defect in material or workmanship, that arise within a period of one (1) year from the date the deed to the buyers for that Unit is filed for record.

**B. Common Areas and Facilities.** The Declarant warrants to provide and pay for the full cost of labor and



materials for any repair or replacement of the roof and structural components, and mechanical, electrical, plumbing, and common service elements serving the Condominium as a whole, occasioned or necessitated by defects in material or workmanship, that arise within a period of two (2) years from the date the deed is filed for record following the sale of the first Unit in the Condominium to a purchaser in good faith for value.

**C. Appliances, Etc.** In the case of ranges, hot water heaters and other similar appliances, if any, installed and furnished by the Declarant as part of the Unit, the Declarant hereby assigns to the buyers all express and implied warranties of the manufacturer, and the Declarant's warranty with respect to such items as limited to the Declarant's warranty that the same have been properly installed.

**D. Extended Warranties.** The Declarant hereby assigns to the buyers any warranties made to the Declarant that exceed the time period for warranties that the Declarant has given to the buyers by this limited warranty.

**E. Limitations.**

(1) No responsibility is assumed for damage from any cause, whatsoever, other than to repair or replace, at the Declarant's cost, property damaged by reason of the breach by the Declarant of any warranty given to the buyers.

(2) No responsibility is assumed for consequential or incidental damage except to the extent, if any, not permitted to be excluded or limited by law.

(3) Implied Warranties, if any, are limited to one (1) year from the date on which the Unit is deeded to the buyers, except to the extent, if any, that limitation is not lawful.

(4) These written warranties are the only express warranties the Declarant gives to the buyers unless additional warranties are included in a written contract between the Declarant and the buyers.

(5) Any requests for services must be sent in writing to the Declarant at 2000 The Bluffs, Toledo, Ohio 43615, or at such other address as the Declarant may designate, from time to time, in writing to the buyers. The Declarant or the Declarant's designated representative will commence performance of the Declarant's obligation under this warranty within thirty (30) days after receipt of buyer's request for service, and complete the same as soon as reasonably possible. All repairs and adjustments will be made Monday through Friday, 8:00AM to 5:00PM.

**F. Other Rights.** This written limited warranty gives the buyers specific legal rights and the buyers may also have other legal rights under law.

**SECTION 9 -- ARBITRATION OF DISPUTES.** The following provision addresses the resolution of potential disputes that could arise between Unit Owners in the Condominium in the interpretation and enforcement of the various provisions of this Declaration and the By-Laws of the Association.

In the event the Unit Owners cannot agree as to the interpretation of any provision of this Declaration, or the enforcement of same, each Unit Owner shall have the right to demand that the issues and disputes between them shall be decided by arbitration according to the arbitration rules of the American Arbitration Association. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrator or arbitrators shall be final and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. Notice of the demand for arbitration shall be filed in writing with the other Unit Owners and with the American Arbitration Association. At no time shall the filing of a demand for arbitration or the conducting of any proceedings thereunder be construed to obviate a Unit Owner's obligation to timely pay any assessments by the Association, which obligation shall continue so long as a Unit Owner continues to own a Unit in this condominium development. Further, the filing of a demand for arbitration and the existence of any dispute between Unit Owners shall not relieve the Association from any of its responsibilities with respect to all Condominium Property including the Unit involved in the dispute. The cost of arbitration excluding attorneys' fees shall be paid by the party who fails at said arbitration and in the event of a compromise decision by said arbitrator or arbitrators, the costs of arbitration are to be apportioned between the Unit Owners involved in bringing the demand for arbitration as determined by the arbitrator or arbitrators.

**SECTION 10 -- DECLARANT'S OBLIGATIONS.** Declarant will assume the rights and obligations of a Unit Owner in its capacity as Owner of Units not yet sold, including, without limitation, the obligation to pay common expenses attached to such Units, from the date this Declaration is filed for record.

## **ARTICLE XIX**

### **EXPANSIONS**

**SECTION 1 -- RESERVATION OF EXPANSION OPTION.** Declarant expressly reserves the option to expand the Condominium Property as provided in this Article XIX.

**SECTION 2 -- LIMITATIONS ON OPTION.** Declarant has no limitations on his option to extend the Condominium Property except as provided in this Article or elsewhere in this Declaration, and except as otherwise so expressly limited, has the sole right, power and authority to expand the Condominium Property. No Unit Owner's consent is required to enable Declarant to expand the Condominium Property.

**SECTION 3 -- MAXIMUM EXPANSION TIME.** Declarant's option to expand the Condominium Property shall expire and terminate at the end of seven (7) years from the date this Declaration is filed for record, renewable for an additional seven (7) year period at the option of the Declarant, exercisable within six (6) months prior to the expiration of the seven (7) year period, and with the consent of the majority of the Unit Owners other than Declarant, unless Declarant, by written notice to the Association, elects to waive that option effective at a time prior to the expiration of that seven (7) year period. There are no circumstances that will terminate that option prior to the expiration of that seven (7) year period.

**SECTION 4 -- LEGAL DESCRIPTION.** The proposed Additional Units will be constructed on that property labeled for same on Exhibit "C" which is attached hereto and made a part hereof. Since this Additional Property may be added to the Condominium Property, a metes and bounds description of that area that is reserved



for future development is set forth on Exhibit "C". The term "Additional Property" used herein means the proposed additional Units and improvements which may be constructed within those areas which are described on the aforesaid Exhibit "C".

**SECTION 5 -- COMPOSITION OF PORTIONS ADDED.** Neither all or any portion of the Additional Property must be added to the Condominium Property, nor, if any of the Additional Units are added, shall it be required that a particular portion of the Additional Units must be added, provided that portions added meet all other requirements set forth in this Article. Except as expressly provided in this Article, there are no limitations on the portions of the Additional Units that may be added to the Condominium Property.

**SECTION 6 -- TIME FOR ADDING PORTIONS.** Portions of the Additional Property may be added to the Condominium Property from time to time, and at different times, within the time limit previously described. There are no limitation fixing the boundaries of portions added, or regulating the order in which portions are added.

**SECTION 7 -- IMPROVEMENT LOCATION LIMITATIONS.** There are no established or defined limitations as to the location of any improvements that may be made on any portion of the Additional Property except such limitations as may then be in effect by reason of the laws and lawful rules and regulations of the appropriate governmental bodies and authorities having jurisdiction.

**SECTION 8 -- MAXIMUM NUMBER OF UNITS.** The maximum total number of Units that may be created on the Additional Property is five (5). The maximum total number of Units that be created on the entire Condominium Property, including the Additional Property is eight (8).

**SECTION 9 -- NON-RESIDENTIAL USES.** The maximum percentage of the aggregate land and floor area of all Units that may be created on the Additional Property or portions thereof and added to the Condominium Property that are not restricted exclusively to residential use is zero, since no such Unit may be so created or added.

**SECTION 10 -- COMPATIBILITY OF STRUCTURES.** All structures erected on all or any portion of the Additional Property will be compatible with structures then on the Condominium Property in terms of quality of construction, the principal materials to be used, and architectural style and design. Comparable style and design shall be deemed to exist if the exterior appearance of the structure on the Additional Property is compatible and harmonious with those then on the Condominium Property. Design shall not be deemed to be incompatible or not comparable because of changes in the style, number of dwelling Units in the Building, or variances in setbacks or locations of structures in relation to other improvements.

**SECTION 11 -- IMPROVEMENTS OTHER THAN STRUCTURES.** Drives, sidewalks, yard areas, and other improvements similar to those then on the Condominium Property shall be constructed on the Additional Property and no other non-structural improvements must be made. There are no other restrictions or limitations upon the improvements that may be made other than any improvements shall be compatible or harmonious with those improvements then on the Condominium Property.

**SECTION 12 -- TYPES OF UNITS.** All Units that are created on all or any portion of the Additional Property and added to the Condominium Property need not be substantially identical to and of the types of Units then on the Condominium Property.

**SECTION 13 -- LIMITED COMMON AREAS.** Declarant reserves the right with respect to all or any portion of the Additional Property to create Limited Common Areas therein of any type, size and number including, without limiting the generality of the foregoing, if applicable: patios, driveways, walkways, porches, alcoves, air conditioners, patio privacy fences and other Limited Common Areas for the exclusive use and benefit

of the Unit Owners and Occupants of the Units served by the same. The precise size and number of such newly created Limited Common Areas cannot be ascertained precisely, because those facts will depend on the size and location of the buildings and other improvements on each portion, and other factors presently undetermined.

**SECTION 14 -- SUPPLEMENTARY DRAWINGS.** Incorporated within the Drawings are depictions of the location and dimensions of the Additional Property. Declarant does not consider any other drawings or plans, other than the Drawings, presently appropriate in supplementing the foregoing provisions of this Article. However, at such time as Declarant adds all or any portion of the Additional Property to the Condominium Property, it shall file drawings and plans with respect to the Additional Property as required by the Condominium Law.

**SECTION 15 -- PROCEDURES FOR EXPANSION.** All or any portion of the Additional Units and Additional Property shall be added to the Condominium Property by the execution and filing for record by the Declarant and all owners and lessees of the land so added, in the manner provided by the Condominium Act, of an amendment to the Declaration that contains the information, drawings and plans with respect to the Additional Property and improvements thereon added required by the Condominium Law. If required, all of the Unit Owners of the Condominium Property will join in the execution of said amendment.

**SECTION 16 -- EFFECTS OF EXPANSION.** Upon the filing for record of an amendment to the Declaration adding all or any portion of the Additional Property and Additional Units to the Condominium Property:

(a) The added Units and the portion of the Additional Property shall thereafter be subject to all of the terms and provisions hereof, to the same extent and with the same effect as if that added portion had been provided herein as constituting part of the Condominium Property; that is, the rights, easements, covenants, restrictions and assessment plan set forth herein shall run with and bind the added portion in the same manner, to the same extent, and with the same force and effect as the terms of this Declaration apply to the Condominium Property;

(b) The owner or owners of the added portion of the Additional Property shall thereupon become members of the Association, to the same extent, with the same effect, subject to the same obligations and imbued with the same rights as all other members;

(c) The undivided interests of Units in the Common Areas, as so expanded, shall be reallocated as hereinbefore provided; and

(d) In all other respects, all of the provisions of this Declaration shall include and apply to such additional portions of the Additional Property and to the owners, mortgagees and lessees thereof with equal meaning and of like force and effect.



IN WITNESS WHEREOF, the undersigned has executed this instrument  
this \_\_\_\_ day of June, 1999.

WITNESSES:

Jerome R. Parker  
Mary Rust

DECLARANT: The Environment Building  
Company, an Ohio corporation

By: Mark A. Nowakowski  
Mark A. Nowakowski, President

STATE OF OHIO, COUNTY OF LUCAS, ss:

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of  
June, 1999, by Mark A. Nowakowski, the President of The Environment Building  
Company, on behalf of said corporation.

Jerome R. Parker  
Notary Public

Jerome R. Parker, Attorney at Law  
Notary Public — State of Ohio  
My Commission has no Expiration Date  
Section 147.03 O.R.C.



### CONSENT OF MORTGAGEE

National City Bank, in accordance with the requirements of the foregoing  
Declaration for The Bluffs Plat 3, Lot 21 Condominium, does hereby through its below  
authorized signature, consent to the execution and recording of the foregoing  
Declaration of Condominium Ownership.

WITNESSES:

NATIONAL CITY BANK

Barbara H. Nichols  
J. Mari Zota

By: Douglas L. Box SRV.P.

STATE OF OHIO, COUNTY OF LUCAS, ss:

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of  
June, 1999, by Douglas L. Box the  
Senior Vice President of National City Bank, an Ohio banking  
corporation, on behalf of said corporation.

Barbara H. Nichols  
Notary Public

BARBARA H. NICHOLS  
Notary Public, State of Ohio  
My Commission Expires Dec. 10, 2001



THIS INSTRUMENT PREPARED BY:  
Jerome R. Parker, Esq.  
Gressley, Kaplin & Parker  
608 Madison Avenue, Suite 930  
Toledo, Ohio 43604  
(419) 244-8336

99 312B02  
99 310B03

## **EXHIBIT "B"**

### **BY-LAWS OF**

### **THE BLUFFS PLAT 3, LOT 21 CONDOMINIUMS ASSOCIATION**

#### **ARTICLE 1**

##### **NAME AND LOCATION**

THE BLUFFS PLAT 3, LOT 21 CONDOMINIUM ASSOCIATION, an Ohio unincorporated association, referred to herein as the "Association", is formed for the purpose of acting as the Unit Owner's Association (as described in Section 5311.08 of the Ohio Revised Code) for a Condominium Development being constructed in Lucas County, Ohio, pursuant to Condominium Documents to be filed with the Lucas County, Ohio Recorder's Office, Lucas County, Ohio. This Association shall manage and operate the Condominium and do all things necessary or incidental thereto. Provided, however, that the formation and management of the Association shall be in compliance with Sections 5311.08 and 5311.09 of the Ohio Revised Code, as amended, and in all cases it shall be subject to and take no action inconsistent with or contrary to the Condominium Declaration and attached Exhibits (the "Condominium Documents") recorded in the Lucas County, Ohio, Recorder's Office, and Chapter 5311 of the Ohio Revised Code, as amended.

#### **ARTICLE II**

##### **DEFINITIONS**

All of the terms used herein shall have the same meanings as set forth in the Declaration of THE BLUFFS PLAT 3, LOT 21 CONDOMINIUM, (the "Declaration"), recorded simultaneously herewith with the Recorder of Lucas County, Ohio.

#### **ARTICLE III**

##### **UNIT OWNERS (MEMBERS)**

**SECTION 1 -- COMPOSITION.** Each Unit Owners, as defined in the Declaration, is a member of the Association.

**SECTION 2 -- ANNUAL MEETINGS.** Regular meetings of the Unit Owners shall be held in the first calendar quarter of each year hereafter, on a date and at an hour established, from time to time, by the Board.

**SECTION 3 -- SPECIAL MEETINGS.** Special meetings of the Unit Owners may be called at any time by the president or by the Board, upon written request of the Unit Owners entitled to exercise three-fourths (3/4) or more of the voting power of the Unit Owners, and when required by the Condominium Act.

**SECTION 4 -- NOTICE OF MEETINGS.** Written notice of each meeting of Unit Owners shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least five (5) days before such meeting, to each Unit Owner entitled to vote thereat, addressed to the Unit Owner's address last appearing on the books of the Association, or supplied by such Unit Owner to the Association for the purpose of notice, or by delivering a copy of that notice at such address at least five (5) days before the meeting. The notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.



**SECTION 5 -- QUORUM.** The Unit Owners present, in person or by proxy, at any duly called and noticed meeting of the Unit Owners, shall constitute a quorum for such meeting.

**SECTION 6 -- PROXIES.** At any meeting of Unit Owners, a Unit Owner may vote in person or by proxy. All proxies shall be in writing and filed with the secretary prior to the meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by a Unit Owner of his, her or its Unit.

**SECTION 7 -- VOTING POWER.** Except as otherwise provided in the Condominium organizational documents, or by law, a majority of the voting power of Unit Owners voting on any matter that may be determined by the Unit Owners at a duly called an notice meeting shall be sufficient to determine that matter. The rules of Roberts Rules of Order shall apply to the conduct of all meetings of the Unit Owners except as otherwise specifically provided in the Condominium organizational documents or by-laws.

**SECTION 8 -- ACTION IN WRITING WITHOUT MEETING.** Any action that could be taken by Unit Owners at a meeting may be taken without a meeting with the affirmative vote or approval, in a writing or writings, or Unit Owners having not less than a majority of the voting power of Unit Owners, or such greater proportion of the voting power as may be required by the Condominium organizational documents, or by law.

#### **ARTICLE IV**

##### **BOARD OF TRUSTEES: (BOARD OF MANAGERS)**

**SECTION 1 -- INITIAL TRUSTEES.** The initial Trustees shall be those three (3) persons named as the initial Trustees in the Declaration, or such other person or persons as may from time to time be substituted by the Declarant.

**SECTION 2 -- SUCCESSOR TRUSTEES.** The number, times of election, and terms of those who will serve as Trustees of the Association to succeed the initial Trustees, shall be as provided in the Declaration and these By-Laws.

**SECTION 3 -- REMOVAL.** Excepting only Trustees named in the Declaration or selected by Declarant, any Trustee may be removed from the Board with or without cause, by a majority vote of the Unit Owners. In the event of the death, resignation or removal of a Trustee other than one named in the Declaration or a substitute selected by the Declarant, that Trustee's successor shall be selected by the remaining members of the Board and shall serve until the next annual meeting of the Unit Owners, when a Trustee shall be elected to complete the term of such deceased, resigned or removed Trustee. Declarant shall have the sole right to remove, with or without cause, any Trustee designated in the Declaration, or a substitute selected by the Declarant, and select the successor of any Trustee so selected who dies, resigns, is removed or leaves office for any reason before the election of Trustees by all of the Unit Owners as provided in the Declaration.

**SECTION 4 -- NOMINATION.** Nominations for the election of Trustees to be elected by the Unit Owners shall be made by a nominating committee. Nominations may also be made from the floor at the meetings. The nominating committee shall consist of a chairman, who shall be a member of the Board, and two (2) or more Unit Owners appointed by the Board. The nominating committee shall make as many nominations for election to the Board as it shall, in its discretion, determine, but no less than that number of vacancies that are to be filled.

**SECTION 5 -- ELECTION.** Election to the Board by the Unit Owners shall be by secret ballot, at such elections, the Unit Owners or their proxies may cast, in respect to each vacancy, such voting power as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

**SECTION 6 -- COMPENSATION.** Unless otherwise determined by the Unit Owners at a meeting duly called and noticed for such purpose, no Trustee shall receive compensation for any service rendered to the Association as a Trustee. However, any Trustee may be reimbursed for his or her actual expenses incurred in the performance of duties.

**SECTION 7 -- REGULAR MEETINGS.** Regular meetings of the Board shall be held no less than quarterly, without notice, on such date and at such place and hour as may be fixed from time to time by resolution of the Board.

**SECTION 8 -- SPECIAL MEETINGS.** Special meetings of the Board shall be held when called by the president of the Board, or by any two (2) Trustees, after not less than three (3) days notice to each Trustee.

**SECTION 9 -- QUORUM.** The presence at any duly called and noticed meeting, in person or by proxy, of Trustees entitled to cast a majority of the voting power of Trustees shall constitute a quorum for such meeting.

**SECTION 10 -- VOTING POWER.** Except as otherwise prohibited in the Condominium organizational documents, or by law, vote of a majority of the Trustees voting on any matter that may be determined by the Board at a duly called and noticed meeting at which a quorum is present shall be sufficient to determine that matter.

**SECTION 11 -- ACTION IN WRITING WITHOUT MEETING.** Any action that could be taken by the Board at a meeting may be taken without a meeting with the affirmative vote or approval, in writing or writings, of all of the Trustees.

**SECTION 12 -- POWERS.** The Board shall exercise all powers and authority, under law, and under the provisions of the Condominium organizational documents, that are not specifically and exclusively reserved to the Unit Owners by law or by other provisions thereof, and without limiting the generality of the foregoing, the Board shall have the right, power and authority to:

A. Take all actions deemed necessary or desirable to comply with all requirements of law, and the Condominium organizational documents;

B. Obtain insurance coverage no less than that required pursuant to the Declaration;

C. Enforce the covenants, conditions and restrictions set forth in the Declaration;

D. Repair, maintain and improve the Common Areas;

E. Establish, enforce, levy and collect assessments as provided in the Declaration;

F. Adopt and publish rules and regulations governing the use of the Common Areas and the personal conduct of Unit Owners, Occupants and their guests thereon, and establish penalties for the infraction thereof;



G. Suspend the voting rights of a Unit Owner during any period in which such Unit Owner 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 sixty (60) days for each infraction of published rules and regulations or of any provisions of the Condominium organizational documents);

H. Declare the office of a member of the Board to be vacant in the event such Trustee shall be absent from three (3) consecutive regular meetings of the Board.

I. Authorize the officers to enter into one or more management agreements in order to facilitate the efficient operation of the property; it shall be the primary purpose of such management agreements to provide for administration, management, repair and maintenance as provided in the Declaration, and the receipt and disbursement of funds as may be authorized by the Board (the terms of any management agreement shall be as determined by the Board to be in the best interests of the Association, subject, in all respects, to the provisions of the Condominium organizational documents); and

J. Do all things and take all actions permitted to be taken by the Association by law, or the Condominium organizational documents not specifically reserved thereby to others.

**SECTION 13 -- DUTIES.** It shall be the duty of the Board to:

A. Cause to be kept a complete record of all its acts and affairs and to present a statement thereof to the Unit Owners at each annual meeting of Unit Owners, or at any special meeting when such statement is requested in writing by Unit Owners representing one-half (1/2) or more of the voting power of Unit Owners;

B. Supervise all officers, agents and employees of the Association and see that their duties are properly performed;

C. As more fully provided in the Declaration, to:

(1) Fix the amount of assessments against each Unit;

(2) Give written notice of each assessment to every unit Owner subject thereto within the time limits set forth therein; and

(3) Foreclose the lien against any property for which assessments are not paid within a reasonable time after they are authorized by the Declaration to do so, or bring an action at law against the Unit Owner(s) personally obligated to pay the same, or both;

D. Issue, or cause an appropriate representative to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid;

E. Procure and maintain insurance as provided in the Declaration, and as the Board deems advisable;

F. Cause all officers or employees handling Association funds to be bonded;

G. Cause the property subject to the Association's jurisdiction to be maintained within the scope of authority provided in the Declaration;

H. Cause the restrictions created by the Declaration to be enforced; and

I. Take all other actions required to comply with all requirements of law and the Condominium organizational documents.

## ARTICLE V

### OFFICERS

**SECTION 1 -- ENUMERATION OF OFFICES.** The officers of this Association shall be a president, a secretary, a treasurer and such other officers as the Board may from time to time determine. No office need be a member of the Association nor need any officer be a Trustee. The same person may hold more than one office.

**SECTION 2 -- SELECTION AND TERM.** Except as otherwise specifically provided in the Declaration or By-laws, the officers of the Association shall be selected by the Board from time to time, to serve until the Board selects their successors.

**SECTION 3 -- SPECIAL APPOINTMENTS.** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the board may, from time to time, determine.

**SECTION 4 -- RESIGNATION AND REMOVAL.** Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time by giving written notice to the Board, the president, or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and the acceptance of such resignation shall not be necessary to make it effective.

**SECTION 5 -- DUTIES.** The duties of the officers shall be as the Board may from time to time determine. Unless the Board otherwise determines, the duties of the officers shall be as follows:

A. **President.** The President shall preside at all meetings of the Board, shall have the authority to see that orders and resolutions of the Board are carried out, and shall sign all legal instruments on behalf of the Association.

B. **Secretary.** The Secretary shall record the votes and keep the minutes and proceedings of meetings of the Board and of the Unit Owners, serve notice of meetings of the Board and of the Unit Owners, keep appropriate current



records showing the name of Unit Owners of the Association together with their addresses, and shall act in the place and stead of the President in the event of the President's absence or refusal to act.

**C. Treasurer.** The Treasurer shall assume responsibility for the receipt and deposit in appropriate bank accounts of all monies of the Association, the disbursement of such funds as directed by the resolution of the Board, the keeping of proper books of account, the preparation of an annual budget and a statement of income and expenditures to be presented to the Unit Owners at annual meetings, and the delivery or mailing of a copy of each to each of the Unit Owners.

## **ARTICLE VI**

### **COMMITTEES**

The Board shall appoint a nominating committee and may appoint such other committees as it deems appropriate in carrying out its purposes.

## **ARTICLE VII**

### **BOOKS AND RECORDS**

The books, records and financial statements of the Association, including annual audited financial statements when such are prepared, shall be available during normal business hours or under other reasonable circumstances, upon request to the Association, for inspection by Unit Owners and the holders and insurers of first mortgages on Units. Likewise, during normal business hours or under other reasonable circumstances, the Association shall have available for inspection by Unit Owners, lenders and their insurers, and prospective purchasers, current copies of the Condominium organizational documents and the rules and regulations governing operation of the Condominium.

## **ARTICLE VIII**

### **AUDITS**

Upon written request to the Association by an institutional first mortgagee of a Unit, or its insurer, or by vote of the holders of a majority of the voting power of Unit Owners, the Board shall cause the preparation and furnishing to those requesting of an audited financial statement of the Association for the preceding fiscal year, provided that no such statement need be furnished earlier than ninety (90) days following the end of such fiscal year.

## **ARTICLE IX**

### **FISCAL YEAR**

Unless otherwise changed by the Board, the fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of formation of the Association.

## **ARTICLE X**

### **AMENDMENTS**

Any modification or amendment of these By-laws shall be made only by means of an amendment to the Declaration, in the manner and subject to the approvals, terms and conditions set forth therein, and shall be effective from the time a certificate setting forth such modification or amendment is delivered for recording to the Recorder of the county in which the Condominium is located.

## **ARTICLE XI**

### **EFFECTIVE DATE**

An amendment, when adopted, shall become effective only after being recorded as an Amendment to the Declaration and filed for record in the Recorder's Office of Lucas County, Ohio.

## **ARTICLE XII**

### **CONSISTENCY**

These By-laws shall be amended, if necessary, so as to make the same consistent with the provisions of the Condominium Declaration and Chapter 5311 of the Ohio Revised Code.

## **ARTICLE XIII**

### **ACTS AND OMISSIONS**

No member of the Association acting on behalf of the Association shall be held liable for any act or acts, either of omission or commission, unless done in bad faith.



EXHIBIT A

PROPERTY DESCRIPTION

Part of Lot 21 & Lot H in The Bluffs Plat 3, in Springfield Township, Lucas County, Ohio, (recorded in Volume 141 on Page 94 & 95 of the Lucas County Book of Plats), being bounded and described as follows:

COMMENCING at the northeast corner of said The Bluffs Plat 3, said point also being the northwest corner of the plat of the Bluffs Plat 1 a subdivision recorded in Volume 117 on Page 55 Lucas County Book of Plats, and also lying on the centerline of Bancroft Street, 989.40 feet west of the Northeast corner of Section 33 as measured along the north line of Section 33 (said centerline being the north line of Section 33, T.9.S., R.6.E.);

thence South 0° 05' 20" West, along the east line of said THE BLUFFS PLAT 3, also the west plat line of the plat of the Bluffs Plat 1, to a concrete monument found at 50.09 feet, at the south Right-of-Way line of Bancroft Street;

thence South 86° 37' 26" West, along the south Right-of-Way line of Bancroft Street, a distance of 71.97 feet (seventy one and 97/100 feet) to a set iron pipe, at the northeast corner of lot "H", the POINT OF BEGINNING;

thence South 3° 22' 34" East, a distance of 195.01 feet (one hundred ninety five and 01/100 feet) to a set iron pipe;

thence South 86° 37' 26" West, a distance of 5.11 feet (five and 11/100 feet) to a point of curvature at a set iron pipe;

thence on a curve to the left being concave to the southeast, having a central angle of 25°55'23", a radius of 135.00', a tangent of 31.07', a chord length of 60.56' bearing S-73°39'45"-W, an arc length of 61.08 feet to a point;

thence radially North 29° 17' 57" West, a distance of 62.72 feet (sixty two and 72/100 feet) to a set iron pipe;

thence North 3° 22' 34" West, a distance of 152.18 feet (one hundred fifty two and 18/100 feet), to a point on the south Right-of-Way line of Bancroft Street;

thence North 86° 37' 26" East, a distance of 91.55 feet (ninety one and 55/100 feet) to the POINT OF BEGINNING.

Said described tract containing 0.4066 acres (17,713.50 square feet), more or less. Bearings used hereon are based on an assumed median and are for the express purpose of showing angular measurement.

Property subject to all easements of record.

*RE*

99 312803  
~~99 310804~~

EXHIBIT C

THE BLUFFS PLAT 3, LOT 21 CONDOMINIUM  
PROPERTY DESCRIPTION OF THE AREA RESERVED FOR FUTURE EXPANSION

PART OF LOT 21 AND LOT "H" IN THE BLUFFS PLAT 3 (A RECORD PLAT RECORDED IN VOLUME 141 ON PAGES 94 & 95 LUCAS COUNTY BOOK OF PLATS), IN SECTION 33, T.9.S. R.6.E. IN SPRINGFIELD TOWNSHIP, LUCAS COUNTY, OHIO, BEING BOUNDED AND DESCRIBED AS FOLLOWS;

COMMENCING AT THE NORTHWEST CORNER OF SAID PLAT 3, SAID POINT LYING AT THE CENTER OF RIGHT-OF-WAY OF BANCROFT STREET ON THE NORTH LINE OF SECTION 33, T.9.S. R.6.E., 1299.16 FEET WEST OF THE NORTHEAST SECTION CORNER;

THENCE SOUTH 0°7'07" WEST ALONG THE WEST LINE OF THE BLUFFS PLAT 3, A DISTANCE OF 50.09 TO A FOUND MONUMENT AT THE SOUTH RIGHT-OF-WAY OF BANCROFT STREET, THE TRUE POINT OF BEGINNING;

THENCE NORTH 86°37'26" EAST ALONG THE SOUTH RIGHT-OF-WAY OF BANCROFT STREET A DISTANCE OF 146.27 FEET TO A POINT;

THENCE SOUTH 3°22'34" EAST A DISTANCE OF 152.18 FEET TO A POINT;

THENCE SOUTH 29°17'57" EAST A DISTANCE OF 62.72 FEET TO A NON-TANGENT POINT;

THENCE ON A CURVE CONCAVE TO THE SOUTHEAST HAVING A CENTRAL ANGLE OF 30°17'28", A RADIUS OF 135.00 FEET, A TANGENT OF 36.54 FEET A CHORD LENGTH OF 70.54 FEET BEARING SOUTH 45°33'19" WEST, A ARC LENGTH OF 71.37 FEET TO A POINT;

THENCE NORTH 59°35'24" WEST A DISTANCE OF 12.23' TO A POINT;

THENCE NORTH 74°20'48" WEST A DISTANCE OF 130.01 FEET TO A POINT ON THE WEST PLAT LINE OF THE BLUFFS PLAT 3;

THENCE NORTH 0°07'07" EAST A DISTANCE OF 206.12 FEET TO THE POINT OF BEGINNING;

SAID PARCEL CONTAINING 36,313.98 SQUARE FEET OR 0.8337 ACRES OF LAND MORE OR LESS;

BEARINGS USED TO DENOTE ANGULAR DIFFERENCE ONLY AND DERIVED FROM THE BEARINGS ON THE BLUFFS PLAT 3.

SECOND RECORD

154<sup>00</sup>  
RECEIVED & RECORDED

JUN 17 1999 2:15 pm

SUE RIOUX  
RECORDER, LUCAS COUNTY, OHIO

154<sup>00</sup>  
RECEIVED & RECORDED

JUN 16 1999 4:01 pm

SUE RIOUX  
RECORDER, LUCAS COUNTY, OHIO

99 312611