

OCT 12 1993

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TRANSFERRED BY
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

FEE \$ 105 EXEMPT 105
T.D. 105 PARCEL 105

UNDER CHAPTER 5311 OF THE REVISED CODE OF OHIO
FOR

THE BLUFFS LOT 1 CONDOMINIUM *ink*

Office of the County Auditor
Lucas County, Ohio

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.

Larry A. Kaczala

County Auditor

Dated: OCT 12 1993

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 12th day of October, 1993, at 3:30 o'clock P. M., and recorded this 12th day of October, 1993, in 93-122, page(s) 78-79, Lucas County, Ohio Deed Records and Volume 122, Lucas County, Ohio Book of Plats.

Joe Quigg

County Recorder

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*See Vol 132
pgs. 78-79
of Plats.*

Mudland Box

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DECLARATION

This is the Declaration of The Bluffs Lot 1 Condominium Association made on or as of the ____ day of October, 1993, pursuant to the provisions of Chapter 5311 of the Ohio Revised Code.

RECITALS

WHEREAS, Mark A. Nowakowski, unmarried ("Nowakowski") 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. 87-0277-E05; 89-0374-D03; and 93-0174-B03.

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 The Bluffs Lot 1 Condominium Association as an unincorporated Association.
2. "Association" and the "The Bluffs Lot 1 Condominium Association" mean the unincorporated 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 Lot 1 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 Mark A. Nowakowski, unmarried, and his heirs 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" 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 a part of 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 Lot 1 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 and 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 - Uses. Those portions of the Common Areas described herein and shown on the Drawings as Limited Common Yard Areas and Limited Common Garage Areas 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 eighty 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 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 or 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. This Building is of conventional frame construction with a poured concrete foundation, poured concrete and concrete block basement or lower level walls, 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 four (4)

units within the Building ("Additional Units") in that area labeled "Future Expansion Area" on the Drawings. A metes and bounds description for the Future Expansion Area is 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.

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 2147
Unit 2149
Unit 2151

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 crawl space 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 basements, the crawl spaces, 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:

(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, sump pumps and accessories thereto, wires, ducts and conduits which serve any other Unit.

(7) any heating and/or air-conditioning equipment, wherever located, 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

<u>Unit</u>	<u>Living Space (Including Garage)</u>
2147	2376
2149	2380
2151	2405

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 "L.C.Y.A." and "L.C.G.A." on the Drawings, are Limited Common Areas and consist of certain yard areas, deck, walk, garage and entry areas, and the concrete patio and concrete stoop areas adjacent to, 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:

<u>Unit</u>	<u>Par Value (Points) and % Interest in Common Areas</u>
2147	33 1/3 / 33 1/3 percent
2149	33 1/3 / 33 1/3 percent
2151	33 1/3 / 33 1/3 percent

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 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 the Declarant and two other 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
2000 The Bluffs
Toledo, Ohio 43615

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 which are a part of the Common Areas.

Section 2. Individual Responsibility. Each Unit Owner shall repair and maintain the Unit or Units, and all components thereof, owned by that Unit Owner, the designated limited garage, yard and entry areas, walk areas, and limited common deck and stoop areas. Without limiting the generality of the foregoing, this repair and maintenance responsibility shall include repair and maintenance of the garage and all windows, screens and doors, including the frames, sashes and jambs, and the hardware therefor; and cleaning of the limited common garage, deck, walk 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 VI, or better, or, if 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 that 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.

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 as obligee with respect to any person handling 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 elect 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.

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 the local governmental authorities and 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 and 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 Owner 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-Appportionment: 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 deemed 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 therefor 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 notices 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 provides for herein shall be subject and subordinate to the lien of any duly executed first mortgage on a Unit

recorded prior to the 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 or 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.