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DECLARATION
OF
BARRINGTON COMMONS
HORIZONTAL PROPERTY REGIME

RENAISSANCE COMMONS DEVELOPMENT CORPORATION

"DECLARANT"

INCLUDING THE
CODE OF BY-LAWS OF
THE BARRINGTON COMMONS CO-OWNERS ASSOCIATION, INC.,

RECEIVED FOR RECORD
BETH O'LAUGHIN
RECORDS & MARION CO.
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DECLARATION OF BARRINGTON COMMONS
HORIZONTAL PROPERTY REGIME

THIS DECLARATION OF BARRINGTON COMMONS HORIZONTAL PROPERTY REGIME ("Declaration"), made this 23rd day of September, 1985, by RENAISSANCE COMMONS DEVELOPMENT CORPORATION, an Indiana corporation, ("Declarant"),

WITNESSETH:

WHEREAS, Declarant is the sole owner of the fee simple title to certain real estate, located in Marion County, Indiana, more particularly described in Exhibit A attached hereto and incorporated herein by this reference (hereinafter called the "Tract"); and,

WHEREAS, Declarant, by execution of this Declaration, intends to create a Horizontal Property Regime ("Regime") upon the Tract, subject to the provisions of the Horizontal Property Act of the State of Indiana ("Act") and the terms and conditions of this Declaration; and,

WHEREAS, Declarant intends that as the portions of the Tract are from time to time developed, they will be added to the Regime by amendment to this Declaration, so that the Regime created hereby is to be "expandable", as that term is used in the Act;

NOW, THEREFORE, Declarant hereby makes this Declaration and declares that the Tract shall be a "Horizontal Property Regime" as provided in the Act and that said Horizontal Property Regime shall include all or part of the Tract as the same may be annexed from time to time by recordation of Plans therefor from time to time, subject to and in accordance with the following terms and conditions:

Section 1. Definitions. The following terms whenever used in this Declaration shall have the following assigned meanings:

- (a) "Act" means the Horizontal Property Act of the State of Indiana, Acts 1963, Chapter 349, Sections 1 through 31, as amended.
- (b) "Additional Sections" means the portions of the Tract which may from time to time be annexed to and included within "the Regime" as provided in Section 15.
- (c) "Amendment" means any amendment to this Declaration by which all or any portion of the Tract is included within and made a part of the Regime.
- (d) "Association" means the incorporated association of Co-Owners of the Regime, more particularly described in Section 8.
- (e) "Board of Directors" means the governing body of the Association elected by the Co-Owners in accordance with the By-Laws, and shall be synonymous with the term "Board of Directors" as used in the Act.
- (f) "Building" shall mean a single structure which contains more than one Dwelling Unit.
- (g) "By-Laws" means the Code of By-Laws of Barrington Commons Co-Owners Association, Inc., an Indiana not-for-profit corporation, providing for the

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administration and management of the Association, a true copy of which is attached to this Declaration and incorporated herein by reference.

- (h) "Common Areas" means the General Common Areas as defined in Section 4 of this Declaration and the Limited Areas as defined by Section 5 of this Declaration.
- (i) "Common Expenses" means expenses of administration of the Association, expenses for the upkeep, maintenance, repair and replacement of the Common Areas and all other costs and expenses incurred by the Association for the benefit of the Common Areas or for the common benefit of all Owners; provided, however, that Common Expenses shall not include any costs of initial construction of any Building or other Property or improvements on any portion of the Tract, nor any costs or repairs covered by any warranty of Declarant as builder of the Buildings and other Property within the Regime, nor to any costs or repairs arising out of construction or other activities on any portion of the Tract prior to its addition to the Regime, including but not limited to road damage and debris caused by construction traffic, linkage to any utility lines or mains within the Regime, and damage to or deterioration of grass, trees, fences, or other Property due to construction or the state of areas under development.
- (j) "Co-Owners" means all of the Owners of all the Dwelling Units in the Regime.
- (k) "Declarant" means Renaissance Commons Development Corporation, and any successor or assignee of its interest in all or any part of the Tract or in this Declaration under an instrument or instruments which expressly state that the successor or assignee thereunder shall become the Declarant for purposes of this Declaration.
- (l) "Dwelling Unit" means any individual residential unit within the Regime which is to be transferred to an Owner for exclusive occupancy by said Owner or its successors or assigns, each individual unit being more particularly described and identified on the Plans and in Sections 2 and 3 of this Declaration.
- (m) "Formula" means the method set forth in paragraph 15.B. of this Declaration for computing the Percentage Interest applicable to each Dwelling Unit, including the Percentage Interest after any Additional Section is added by Amendment to this Declaration.
- (n) "General Common Areas" means those Common Areas the use and enjoyment of which is not limited to certain Dwelling Units, as further described and defined in Section 4 of this Declaration.
- (o) "Limited Areas" means those Common Areas, the use and enjoyment of which is limited to a certain Dwelling Unit or Units, as defined in Section 5 of this Declaration.
- (p) "Managing Agent" means any person or entity to which the management responsibilities of the

Association are delegated under Section 13 of this Declaration.

- (q) "Mortgagee" means the holder, insurer, or guarantor of any first mortgage on any Dwelling Unit.
- (r) "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, which owns the fee simple title to a Dwelling Unit; provided, that persons or entities owning a single Dwelling Unit as tenants in common, joint tenants, tenants by the entireties, or any form of joint or divided ownership, shall be deemed one Owner for purposes of this Declaration.
- (s) "Percentage Interest" means the percentage of undivided interest in the fee simple title to the Common Areas and Limited Areas appertaining to each Dwelling Unit, as determined in accordance with Sections 6 and 15 of this Declaration.
- (t) "Percentage Vote" means that percentage of the total vote accruing to all of the Dwelling Units which is applicable to each particular Dwelling Unit and exercisable by the Owner thereof, as described in Sections 7 and 15 of this Declaration and in the By-Laws.
- (u) "Plans" means the floor and building plans of the Buildings and Dwelling Units on the Tract and the site plan, survey and elevation plan of all or any portion of the Tract and Building, duly certified by a registered architect or licensed professional engineer, and any such floor and building plans, site plans, surveys, and elevation plans which shall be prepared, verified and filed with any Amendments and which pertain to portions of the Tract annexed to and made a part of "the Regime" by such Amendments.
- (v) "Property" means the Tract and appurtenant easements, the Dwelling Units, the Building, and all other improvements of every kind and nature whatsoever, now or hereafter located upon the Tract after annexation to the Regime, and used in connection with the operation, use and enjoyment of the Regime.
- (w) "Regime" means the Horizontal Property Regime created by this Declaration and any and all subsequent Amendments thereto.

Section 2. Description of Dwelling Units. The Tract shall contain no more than sixteen (16) Dwelling Units, as shown on the Plans to be recorded from time to time as further described in Section 32, hereof. The Dwelling Units in the various portions of the Tract, as the same are annexed, shall be identified numerically, the exact numbers of the Dwelling Units to be identified and referred to in the Plans filed with each Amendment. The legal description for each Dwelling Unit shall consist of the numeric designation of the particular Dwelling Unit and reference to this Declaration and any relevant Amendments then of record. Each Dwelling Unit shall consist of all space within the boundaries thereof (as hereinafter described) and all fixtures, facilities, utilities, equipment, appliances, and structural components within said boundaries which are designed or intended to be solely and exclusively for

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the enjoyment, use and benefit of the Dwelling Unit. Not included in any Dwelling Unit are those fixtures, facilities, utilities, equipment, appliances, and structural components designed or intended for the use, benefit, support, safety or enjoyment of more than one Dwelling Unit, or which may be necessary for the same, or which are specifically defined or described herein as General Common Areas or Limited Areas, or which are normally intended for common use; provided, however, that all fixtures, equipment and appliances designed or intended for the exclusive enjoyment, use and benefit of a Dwelling Unit shall constitute a part of such Dwelling Unit, even if the same are located wholly or partly outside the boundaries of such Dwelling Unit.

Section 3. Boundaries. The boundaries of each Dwelling Unit shall be as shown on the Plans. The vertical boundaries shall run from the interior, unfinished surfaces of the lowermost floors to the interior, unfinished surfaces of the uppermost ceilings, and the horizontal boundaries shall be the interior, unfinished drywall surfaces of the common walls and exterior walls and the unfinished interior surfaces of the doors and windows of each Dwelling Unit, except that all glass, screens and air conditioning units shall be deemed a part of the Dwelling Unit. In the event that any horizontal or vertical boundary line as shown on the Plans does not coincide with the actual location of the respective wall, floor or roof of the Dwelling Unit because of inexactness of construction, settling after construction, or for any other reasons, the boundary lines of each Dwelling Unit shall be deemed to be and treated for purposes of occupancy, possession, maintenance, decoration, use and enjoyment, as in accordance with the actual existing construction. In such case, permanent easements for exclusive use shall exist in favor of the Owner of each Dwelling Unit in and to such space lying outside of the boundary lines of the Dwelling Unit as indicated on the Plans, but within the walls, floors, and ceilings of the Dwelling Unit as the same may actually exist.

Section 4. General Common Areas. General Common Areas shall include the following, except to the extent otherwise specifically designated in Section 2, 3, or 5 as being within a Dwelling Unit or as Limited Areas:

- (a) the yards, gardens, open spaces, fences, and landscaping;
- (b) sidewalks, streets, driveways, and unenclosed parking areas;
- (c) exterior lighting fixtures and electrical service, except where separately metered to a particular Dwelling Unit;
- (d) electrical, gas, water, sanitary sewer, telephone, and cable television lines, mains, pipes, ducts, conduits, wiring and insulation;
- (e) interiors of all structural walls and floors, including all exterior walls and attic space, walls between horizontally adjacent Dwelling Units, and floors between vertically adjacent Dwelling Units;
- (f) foundations, roofs, exterior wall surfaces of Buildings, and all other structural elements and components of the Buildings;
- (g) all other structures, areas, and facilities not expressly defined as Limited Areas in Section 5

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or expressly included within the Dwelling Units by Sections 2 or 3 of this Declaration.

Section 5. Limited Areas. Limited Areas shall consist of the following:

- (a) Storage Areas. Storage areas, if any, shall be limited to the exclusive use of a particular Dwelling Unit as designated on the Plans. The exclusive use of such storage areas shall pass with title to the Dwelling Unit for which such Area is designated, even though not expressly mentioned in the document passing title. The storage areas and use thereof shall be subject to such rules and regulations as may be deemed appropriate and be adopted by the Board of Directors. An Owner may grant a license to any other Owner to use all or part of his storage area, provided such license shall expire when the Owner granting the license ceases to be an Owner of the Dwelling Unit for which the storage area is designated. Any such license agreement shall be in writing and an executed copy thereof shall be furnished to the Board of Directors. The licensee shall be bound by and subject to all the obligations of the Owner with respect to such storage area, but the Owner granting such license shall not be relieved thereby from any of his obligations regarding such storage area.
- (b) Entranceways and Walkways. The entranceways through which access to a Dwelling Unit is obtained are limited to the use of the Dwelling Unit or Dwelling Units served by such entranceway. The walkways used for access to particular individual Dwelling Units are limited to the use of the Dwelling Units so served.
- (c) Patios and Balconies. The patios, balconies, and porches, are limited to the use of the Dwelling Unit or Dwelling Units to which they are appurtenant.
- (d) Parking Spaces. Each Dwelling Unit shall have the exclusive right to use a certain parking space or spaces designated for the use of such Dwelling Unit on the Plans. Parking spaces not so designated shall be General Common Areas; provided, however, that due to the limited number of such parking spaces, the Association shall have the right to establish rules and regulations governing the use thereof and limit or allocate such use from time to time among particular persons or Dwelling Units, in accordance with such terms criteria as the Association may establish, including payment of uniform, periodic fees for such use.

Section 6. Ownership of Common Area and Percentage Interest. In connection with and as an inseparable part of the ownership of each Dwelling Unit, each Owner thereof shall have an undivided interest in the Common Areas as tenant in common with all other Owners, such interest to be equal to the Percentage Interest applicable to the Dwelling Unit. The Percentage Interest in the Common Areas applicable to each Dwelling Unit shall be determined in accordance with the Formula set forth in Section 15 of this Declaration. As Additional Sections are annexed, as permitted and contemplated

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by paragraph 15 of this Declaration, then upon execution and recordation of the applicable Amendment, the Percentage Interest of each Dwelling Unit which is a part of the Regime prior to such annexation shall be computed and recomputed in accordance with the Formula. Such recomputation will have the effect of reducing the Percentage Interests in those Common Areas which are a part of the Regime prior to such Amendment, so as to allocate Percentage Interests therein to the Dwelling Units added to the Regime by the Amendment. At the same time, such recomputation shall create Percentage Interests, in favor of all Dwelling Units in the Regime immediately following such annexation, in the Common Areas within such Additional Section being annexed. The overall resulting Percentage Interests shall be determined according to the Formula and designated in the applicable Amendment. In any calculation or determination of the Percentage Interest, the figure obtained shall be rounded to the nearest one-thousandth of a percent and shall be so presented for all purposes of conveyance and for all purposes of this Declaration.

Section 7. Membership in Association and Percentage Vote. In connection with and as an inseparable part of the ownership of each Dwelling Unit, each Owner shall be a member of the Association and shall have a Percentage Vote, which he shall be entitled to cast at each meeting of the Association on each matter on which the Co-owners may vote under the terms of this Declaration, the Articles of Incorporation of the Association, or the By-Laws. The Percentage Vote allocable to each Dwelling Unit for all matters upon which the Co-Owners are entitled to vote shall be equal to the Percentage Interest appertaining to each Dwelling Unit as determined by Sections 6 and 15, taking into account any adjustments as a result of any Amendments. Unless otherwise stated in the Act, the By-Laws, or this Declaration, matters to be undertaken or performed by the Association shall be so undertaken or performed only upon the approval thereof by a majority of the Percentage Vote represented at the meeting of the Association at which such matter is considered (provided a quorum is present). To determine whether a majority or any specific percentage of the vote required by this Declaration has approved any matter, the number of Owners whose votes have been cast in favor of such matter shall be tallied. For purposes of this Declaration and the Act, a majority of the Percentage Vote or of the Co-Owners shall not exist unless such sum, when divided by the total number of Dwelling Units then in the Regime, exceeds fifty percent (50%), a two-thirds (2/3) majority of the Percentage Vote of the Co-Owners shall not exist unless such sum, when divided by the total number of Dwelling Units then in the Regime, exceeds the decimal equivalent of two-thirds (2/3), and a majority of the Percentage Vote represented at such meeting shall not exist unless such sum, when divided by the number of Owners present or represented at such meeting, exceeds fifty percent (50%).

Section 8. Association of Owners. In order to provide for the maintenance, repair, replacement, administration and operation of the Property and in compliance with the provisions of the Act, an association of the Co-Owners of the Dwelling Units in the Regime has been or shall be created by Declarant, to be known as the Barrington Commons Co-Owners Association, Inc. (herein referred to as the "Association"). Each Owner shall be a member of the Association, but membership shall terminate when such person ceases to be an Owner, and such membership shall automatically transfer to the new Owner along with the transfer of the Dwelling Unit, whether or not such transfer is stated in the conveyancing instrument. Declarant shall appoint the members of the initial Board of Directors of the Association, which shall control during the period of its incumbency all matters which would be within the authority of

either the Association, or the Board of Directors under this Declaration, the By-Laws, or the Act, except that certain powers including the power of assessment shall be limited as provided in the By-Laws. Each Owner shall confer and shall be deemed to have conferred upon Declarant a proxy to vote in such Owner's name, place, and stead on any and all matters on which the Co-Owners or any of them are entitled to vote under this Declaration, the By-Laws, or the Articles of Incorporation of the Association, and such proxy shall be deemed coupled with an interest and shall be irrevocable. Said initial Board of Directors shall serve until the time when Declarant turns over control of the Regime to the Co-owners, which shall take place no later than the earliest to occur of the following events:

- (a) One hundred twenty (120) days after a total of twelve (12) Dwelling Units in the Regime have been sold by Declarant;
- (b) One hundred twenty (120) days after substantial completion of all Dwelling Units and other Property which Declarant may elect to build on the Tract; or
- (c) The fifth anniversary of the date of this Declaration.

The irrevocable proxy conferred upon Declarant shall terminate as of the date of such transfer of control, and at such time, Declarant shall make available to the Association all books, records, plans, and other information in its possession regarding the activities of said initial Board of Directors and the operation of the Regime prior to such turnover. Thereafter, the Association shall elect a Board of Directors annually in accordance with and as prescribed by the By-Laws, and may take any other actions with respect to control of the Regime provided for by this Declaration, the By-Laws, or the Act. The Board of Directors shall be the governing body of the Association, representing all of the Co-Owners in providing for the management, maintenance, repair, replacement and upkeep of the Property.

Section 9. Encroachments and Easements for Common Areas.

If, by reason of the location, construction, settling, or shifting of a Dwelling Unit, a Common Area now encroaches or shall hereafter encroach upon any Dwelling Unit, then in such event an easement shall be deemed to exist and run to the Co-Owners and the Association for the maintenance, use and enjoyment of such Common Area. Each Owner shall have an easement in common with each other Owner to use all General Common Areas, wherever located.

Section 10. Easement for Utilities and Public and Quasi-Public Vehicles.

All public and quasi-public vehicles, including, but not limited to, vehicles for police, fire, ambulance, and other emergency vehicles, trash and garbage collection, mail delivery, and other delivery services shall have the right to enter upon the General Common Areas in the performance of their duties. A transferable easement is also reserved by Declarant, to be granted to the appropriate utilities and their agents, for ingress and egress for purposes of installation, replacement, repairing, and maintaining of utilities lines, mains, and other necessary facilities and equipment within the Regime, including, but not limited to, water, sewers, gas, telephones, and electricity; provided, however, nothing herein shall permit the installation of sewers, electric lines, water lines, or other utilities, except as designed and approved by Declarant prior to turnover of

control of the Association or as thereafter may be approved by the Board of Directors, nor permit substantial impairment of any Owner's use and enjoyment of his Dwelling Unit, and the grantee of any such easement rights shall be responsible for repair or restoration of damage to any Property caused by its activity pursuant to such easement rights. Declarant and the Association, or either of them, shall have the right to grant such other easements, licenses, and rights-of-way as may be necessary for the proper operation and maintenance of the Regime.

Section 11. Easements to and from Additional Sections. So long as all or any part of the Tract is not annexed, Declarant reserves unto itself, its successors and assigns, for the use and benefit of that part of the portion of the Tract not annexed, an easement to enter upon the General Common Areas to provide ingress and egress to the portion not annexed and to permit construction of buildings and other improvements upon such portion, and an easement for access to any and all necessary utility lines, mains, and other utility services within the Tract for the benefit of any buildings or improvements upon such portion not annexed, whether or not such buildings or improvements are to be added to the Regime. Declarant, or its successors or assigns, shall be responsible for repairing any damage to any Property arising out of the exercise of this easement. The easements herein reserved shall permit free and unrestricted use and access to the roadways and sidewalks by Declarant and any other owners or residents of the portion of the Tract not annexed, their guests, invitees, and all public and quasi-public vehicles. The easements granted and reserved in this paragraph 18 shall be easements and covenants running with the land and accruing to the benefit of the portion of the Tract not annexed.

Section 12. Restrictions on Use. The following restrictions apply to the use and enjoyment of the Dwelling Units, General Common Areas, Limited Areas, and other Property:

- (a) All Dwelling Units shall be used exclusively for residential purposes and occupancy for a single family, and no lease shall demise any Dwelling Unit for a term of less than six months, except as otherwise provided in Section 23 of this Declaration.
- (b) No additional buildings nor any additions thereto or exterior or structural modifications thereof shall be constructed within the Regime, other than the Buildings designated in the Declaration and any Amendment, as shown on the Plans filed with this Declaration or any Amendment.
- (c) Nothing shall be done or kept in any Dwelling Unit or in the Common Areas which will cause an increase in the rate of insurance on any Building or the contents thereof. No Owner shall permit anything to be done or kept in his Dwelling Unit or in the Common Areas which will result in a cancellation of insurance on any Building or contents thereof, or which would be in violation of any law, ordinance, rule, or regulation of any duly constituted governmental authority or any publicly regulated utility.
- (d) No waste shall be committed in the Dwelling Units, General Common Areas or Limited Areas.

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- (e) No Owner shall cause or permit anything to be hung or displayed on the outside of the windows or placed on the outside walls of a Building, or on or upon any balcony or patio, and no sign, awning, canopy, shutter, radio or television antenna, or other attachment shall be affixed to or placed upon the exterior walls or roof or any other part of the Building, without the prior written consent of the Board of Directors.
- (f) No animals of any kind shall be raised, bred, or kept in any Dwelling Unit or in the Common Areas, except that small pet dogs, cats, or customary household pets may be kept in a Dwelling Unit, provided that such pet is not kept, bred, or maintained for any commercial purpose, and does not create a nuisance. Pets shall be permitted outdoors only under leash and accompanied by an Owner or other person, and an Owner shall be fully liable for any injury or damage to any person or to the Common Areas caused by his pet, and shall be responsible for removing from such areas his pet's waste materials. The Board of Directors may adopt such other rules and regulations regarding pets as it may deem appropriate, and in the event that in the judgment of the Board of Directors, any pet is causing or creating a nuisance or unreasonable disturbance or noise, such pet shall be permanently removed from the Property upon written notice of such determination by the Board of Directors.
- (g) Nothing shall be done or permitted in any Dwelling Unit which will impair the structural integrity of any Building or which would structurally change any Building, except as otherwise expressly provided in the Declaration or these By-Laws; nor shall any Dwelling Unit be used in any manner which causes or threatens injury to the reputation of the Regime or to cause nuisance, annoyance, inconvenience, or damage to other Owners or tenants of any Building, including, without limiting the generality of the foregoing, noise by the use of any musical instruments, radio, T-V, loud speakers, electrical equipment, amplifiers, or other equipment or machines.
- (h) No clothes, sheets, blankets, rugs, laundry, or other similar objects or materials shall be hung out or exposed on any part of the Common Areas. The Common Areas shall be kept free and clear of rubbish, debris, and other unsightly material by the Owners, except as to specific areas designed for temporary storage thereof.
- (i) No industry, trade, or other commercial or organized religious activity, educational or otherwise, whether designed for profit, altruism or otherwise, shall be conducted, practiced, or permitted on the Property.
- (j) No "For Sale", "For Rent" or "For Lease" signs, nor any window advertising display of any kind shall be maintained or permitted on any part of the Property, without the prior consent of the Board of Directors; provided, however, that the right is reserved by the Declarant and the Board

of Directors to place or allow to be placed "For Sale" or "For Lease" signs on any unsold or unoccupied Dwelling Units.

- (k) All Owners and members of their families, their guests, or invitees, all lawful occupants of any Dwelling Unit and all other persons entitled to use the same and to use and enjoy the Common Areas or any part thereof, shall observe and be governed by such rules and regulations as may from time to time be issued in writing by the Board of Directors governing the operation, use, and enjoyment of the Common Areas.
- (l) No boats, campers, trailers of any kind, buses, mobile homes, trucks, motorcycles, mini-bikes, or any other unconventional vehicles of any description, shall be permitted, parked, or stored anywhere within the Property, except that any such vehicles may be parked or stored completely enclosed within a garage, or except as may be authorized in writing by the Board of Directors.
- (m) No Owner (other than Declarant) shall be allowed to plant trees, landscape, or to do any gardening in any of the Common Areas, except with the written consent of the Board of Directors.
- (n) All trash or refuse shall be stored in appropriate containers inside the Dwelling Unit (including garage) or designated trash receptacles, and such areas shall be kept accessible for the regular trash collection system established by the Board of Directors.
- (o) No Owner shall install or maintain any interior or exterior window decor visible from outside the Dwelling Unit, other than interior window coverings having a white or pastel back lining.

Section 13. Maintenance, Decoration, Repairs and Replacements.

A. Common Areas. The Association will be responsible for the maintenance, repair, decoration, restoration, and replacement of the Common Areas. Maintenance, decoration repairs, and replacements of the Common Areas shall be furnished by the Association and the cost thereof shall be part of the Common Expenses. The Association shall maintain the Property in accordance with certain covenants recorded as Instrument Nos. 85-75869 through 85-75873, inclusive, in the office of the Recorder of Marion County, Indiana. The Association may elect to delegate such duties to a Managing Agent and may enter into a management contract for such purpose, provided that such agent and the terms of such contract are approved by a majority of the vote present or represented at any meeting of the Association. Declarant or an entity affiliated with Declarant shall serve as the Managing Agent for the Regime so long as Declarant retains control of the Association, and shall perform all property management functions on behalf of the Association. Any management contract made or which is deemed to arise between the Association and Declarant (or any affiliate) shall be terminable by the Association without cause and without penalty upon thirty (30) days' written notice at any time after Declarant relinquishes control of the Association. The Board of Directors has the right to adopt such rules and regulations concerning the maintenance, repairs, use and enjoyment of the

Common Areas as it deems appropriate, including the appointment of committees to oversee the same. The Board of Directors shall have the exclusive right to determine the outside decor of each Dwelling Unit, including without limitation the color and type of paint and all other decor appurtenant to the exterior of each individual Dwelling Unit.

B. Dwelling Units. Each Owner shall control and have the right to determine the interior decor of his Dwelling Unit, but this shall not include the right to make structural changes to the Dwelling Unit, nor the right to use interior decor which in the discretion of the Board of Directors adversely affects the external appearance of the Dwelling Unit, as more particularly set forth in Section 12 of this Declaration. No act or omission which constitutes waste shall be committed or suffered in or upon any Dwelling Unit, the General Common Areas, or Limited Areas. Each Owner shall maintain and repair at his sole cost and expense all fixtures, appliances, equipment, and other improvements constituting a part of his Dwelling Unit under Sections 2 and 3 hereinabove, and each Owner shall promptly repair any condition or defect existing or occurring in his Dwelling Unit which, if not repaired, might adversely affect any Dwelling Unit, General Common Area or Limited Area. The Board of Directors and the Managing Agent shall have the right at reasonable times and upon reasonable prior notice (except in cases of emergency in which case no notice shall be required) to enter into the Dwelling Units and the Common Areas adjacent to each Dwelling Unit to replace, repair, and maintain such Common Areas. In the event that any Owner fails or is unable to maintain or repair any condition or defect for which he is responsible and the Board of Directors or the Managing Agent have a reasonable basis for believing that such condition or defect has caused or threatens to cause immediate and substantial harm to any person or to any property outside his Dwelling Unit, the Board of Directors and the Managing Agent shall each have the right to enter such Owner's Dwelling Unit to remedy or repair such condition or defect, and any costs or expenses incurred in connection therewith (including attorneys fees) shall be payable by such Owner upon demand by the Board of Directors or the Managing Agent. Nothing herein contained shall be construed to represent a contractual liability to any Owner on the part of the Declarant, the Association, or the Board of Directors for maintenance, repair, or replacement of any Dwelling Unit, General Common Areas, or Limited Areas, and the liability of the Association, the Board of Directors, and the Managing Agent in this regard shall be limited to damages resulting from gross negligence, recklessness, or intentional misconduct, unless otherwise provided in the management contract in the case of the Managing Agent.

Section 14. Alterations, Additions, and Improvements. No Owner (other than Declarant) shall make any alterations, additions, or improvements to the Common Areas without the prior written approval of the Board of Directors, nor shall any Owner make any alterations to his respective Dwelling Unit which would impair the safety thereof, or which would substantially alter or adversely affect any structural portion of any Dwelling Unit or impair any easement or hereditament, without the unanimous consent of the Co-owners. Any alteration, addition, or improvement made by any Owner wholly or in part outside his respective Dwelling Unit with the consent of the Board of Directors shall remain the property of that Owner and shall be owned, maintained, and insured by that Owner as part of his Dwelling Unit and deemed a part thereof for purposes of this Declaration. Upon the sale of his Dwelling Unit, such alterations, additions, or improvements shall be transferred along with such Dwelling Unit, and the purchaser shall be deemed to assume the prior Owner's maintenance and insurance obligations. If, in the reasonable

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discretion of the Board of Directors, such alteration, addition, or improvement is not being properly maintained, the Board of Directors or Managing Agent may perform any necessary maintenance work if such condition is not corrected by such Owner within ten (10) days after notice of such determination by the Board of Directors, and such Owner shall be liable for all costs incurred in connection with such maintenance, including attorneys' fees incurred for collection of the same.

Section 15. Expansion. The provisions of this paragraph shall govern the creation of Dwelling Units within the Regime, the expansion of the Regime, and the allocation and reallocation of Percentage Interests and Percentage Votes.

A. Expansion by Sections. Declarant anticipates that it may construct from time to time Dwelling Units on various portions of the Tract, for inclusion within the Regime in the manner hereinafter set forth. The general plan of development shall be consistent throughout the Tract, and all Dwelling Units shall be contained within a single integrated structure or immediately adjacent structures, having a consistent architectural style as approved by the Indianapolis Historic Preservation Commission. The maximum number of Dwelling Units to be contained in the Tract is sixteen (16), and the minimum number is eight (8). Additional Sections shall not be added by Declarant at any time after the expiration of seven (7) years from the date of this Declaration, nor shall Declarant add any further sections if more than five (5) years have elapsed since the most recent prior section was added to the Regime. At any time, and from time to time, prior to the expiration of said seven-year period, Declarant, at its option, may cause all or any part of the Tract to be included within the Regime, subject to the following conditions:

- (a) An Additional Section shall be annexed when the Dwelling Units to be constructed in such Additional Section have been substantially completed, and when the Plans therefor are completed, certified by a licensed professional engineer or registered architect as fully and accurately depicting the layout, location, and dimensions of the Dwelling Units, and recorded along with an Amendment conforming to the requirements of subsection C of this Section 15; and
- (b) The Dwelling Units on any Additional Sections shall be constructed with labor and material of comparable quality to the Dwelling Units previously constructed, although not necessarily of similar design, either as to interior floor plan or structural design. Declarant reserves the right to determine all developmental standards of each Additional Section other than those particularly set forth in this Section 15.

Declarant expressly reserves the right not to annex any or all of the Tract. Upon annexation of each Additional Section to the Regime, each Owner shall acquire a Percentage Interest, as computed and recomputed from time to time in accordance with this Section 15, in the Common Areas in such Additional Section, at which time each Co-Owner thenceforth shall also incur and pay his Percentage Interest share of the Common Expenses attendant with such Additional Section, along with the Common Expenses attendant with the portions of the Tract which shall then have been added to the Regime. In no event shall the Regime be merged with any other horizontal property regime,

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but the Association may cooperate with other co-owner's associations in obtaining joint management, maintenance, or repair services in order to increase the cost efficiency of obtaining such services.

B. Percentage Interest. The Owner of each Dwelling Unit shall have a Percentage Interest and Percentage Vote appurtenant to his Dwelling Unit which is equal to the Percentage Interest and Percentage Vote held by all other such Owners, and there will be no differentiation based upon the size or value of the Dwelling Units. The Percentage Interest and Percentage Vote appurtenant to each Dwelling Unit at any time shall be: One divided by the total number of Dwelling Units in the Regime at that time (herein called the "Formula"). The total shares at all times shall equal 100%, or as is close to 100% as is mathematically possible, having regard to the equality of shares allocable to each Dwelling Unit and the rounding thereof as required by Section 6.

C. Procedures For Amendment. As each Additional Section is developed, Declarant may record the Plans for such Additional Section and an Amendment annexing and submitting such Additional Section to this Declaration and making it a part of the Regime. Declarant reserves the right to annex Additional Sections in any manner or order it may choose. Such Amendment shall contain the following:

- (a) A description of the portion of the Tract to be annexed;
- (b) A description of the Dwelling Units described in a manner consistent with this Declaration and the Act;
- (c) The Percentage Interest of each of the Dwelling Units in the Regime after such annexation, computed in accordance with the Formula.

D. Rights of Owners Affected By Expansion. Each Owner, by acceptance of a deed to a Dwelling Unit, acknowledges, consents, and agrees that the following rights and conditions shall be applicable upon the recording of each Amendment:

- (a) The Additional Section described in each Amendment shall be governed in all applicable respects by the provisions of this Declaration.
- (b) The Percentage Interest and Percentage Vote applicable to each Dwelling Unit shall be automatically reallocated in accordance with the figure set forth in such Amendment, which reallocation shall be in accordance with the Formula. On recording of each Amendment, the amount by which the Percentage Interest of a Dwelling Unit Owner is reduced shall thereupon divest from such Dwelling Unit Owner and revert to the Declarant, its successors and assigns.
- (c) Each deed, mortgage, or other instrument affecting a Dwelling Unit shall be deemed to be subject to the limitation that the Percentage Interest appurtenant to each Dwelling Unit shall be, upon the recording of each Amendment, altered in accordance with each Amendment and the Formula.
- (d) The Percentage Interest in the Common Areas shall be deemed to include any additional Common Areas annexed hereto by such Amendment. Each Amendment

shall grant and convey to the Owners the appropriate Percentage Interest in the Common Areas added by such Amendment, and each deed, mortgage, or other instrument affecting a Dwelling Unit shall be deemed to include and attach to such additional Common Areas.

- (e) The recording of an Amendment shall not alter the amount of the lien for Common Expenses previously assessed to a Dwelling Unit which was already a part of the Regime prior to such recording. The lien for the share of Common Expenses from and after such recording shall be assessed and paid based upon the recomputed Percentage Interest.
- (f) Each Owner agrees to execute and deliver such documents as are necessary or desirable to accomplish the annexation of the Additional Sections in the Tract in accordance with the provisions of this Section 15.

E. Removal From Tract. In the event Declarant elects not to annex all or part of the Tract, as permitted by this Section 15, Declarant shall file an Amendment which shall permanently remove that portion of the Tract which Declarant elects not to annex, and said portion thereafter shall not be subject to any possibility of becoming a part of the Regime. In addition, any portion of the Tract for which an Amendment has not been filed within seven (7) years of the date hereof shall automatically be removed from the possibility of becoming a part of the Regime. When, because of the annexation of all of the Tract, the passage of time, or the filing of an amendment under this Subsection E, the Regime is no longer subject to expansion, the Percentage Interest then in effect shall not be altered unless one hundred percent (100%) of the Percentage Vote approves such change, and unless Mortgagees of at least two-thirds of the Dwelling Units in the Regime consent to such change.

Section 16. Assessments.

A. Liability for Assessments. As of the first day of the first month following its addition to the Regime, each Dwelling Unit and the Percentage Interest appurtenant thereto shall be subject to the Regular Assessments and special Assessments for Common Expenses as provided in this Section 16, and all such Assessments shall constitute liens upon each Dwelling Unit and appurtenant Percentage Interest as of the date of determination of each such Assessment by the Association, as further provided and described in the By-Laws. The date(s) on which Assessments are due and payable shall be as specified in this Declaration or the By-Laws, or if not so specified, then as determined by the Board of Directors. In addition, each Owner shall be personally liable for the amounts of any and all Assessments which become due and payable during the period in which such Owner holds title to a Dwelling Unit. No Owner shall be personally liable for any Assessments which first became due and payable prior to the time such Owner took title to a Dwelling Unit unless he expressly assumes such liability, except as may otherwise be required by the Act. However, a conveyance by an Owner of his Dwelling Unit shall not operate to release or limit the liability of an Owner for Assessments becoming due and payable while such Owner holds title to a Dwelling Unit. The lien of any Assessment shall be subordinate to any first mortgage on any Dwelling Unit which was recorded before the time when said Assessment first became delinquent. Notwithstanding any other provision of this Declaration or the By-Laws, the Declarant shall not be liable for any Assessments

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on any unoccupied Dwelling Unit(s) owned by Declarant until the later of: (i) twenty-three months from the date of this Declaration, or (ii) the date on which Declarant turns over control of the Association; subject however to the obligation to make up any deficits of the Association during such period and to any contrary provision of the Act.

B. Collection of Assessments. Each Assessment shall be due and payable within ten (10) days of the due date thereof as specified in this Declaration or in the By-Laws, or if not so specified, then within ten (10) days of any due date(s) determined by the Board of Directors, and the date marking the end of the applicable time period allowed herein for the payment of such Assessment is hereby termed the "Delinquency Date". Any Assessment which is not paid in full by the Delinquency Date shall be deemed delinquent without further notice or demand to the defaulting Owner, and shall bear interest on the unpaid balance thereof from the Delinquency Date until fully paid, at a rate of interest equal to eighteen percent (18%) per annum. In the event that any costs or expenses, including attorney's fees, are incurred by or on behalf of the Association with respect to the recovery or collection of any delinquent Assessment, all such costs and fees shall be due and payable immediately by such delinquent Owner and shall bear interest from the dates incurred until paid in full, at a rate of interest equal to eighteen (18%) per annum. All interest and all costs and expenses payable hereunder with respect to a delinquent Assessment shall be added to and deemed a part of such delinquent Assessment and shall constitute a lien on the delinquent Owner's Dwelling Unit and Percentage Interest as of the date on which such delinquent Assessment first became a lien. In the event that any Assessment is not fully paid on or before the Delinquency Date, the Association shall be entitled to accelerate and declare due and payable in full all installments of Assessments due for the year in which such delinquency occurs, and to enforce payment of the same by foreclosure of said lien and/or other appropriate legal proceedings in accordance with the laws of the State of Indiana. Any such lien against a Dwelling Unit and its Percentage Interest shall be subordinate to any first Mortgage covering such Dwelling Unit and its Percentage Interest if and to the extent such Mortgage was recorded prior to the due date of the delinquent Assessments.

Section 17. Insurance.

A. The Association shall obtain fire and extended coverage insurance insuring all Dwelling Units in the Regime including all fixtures, appliances, and other improvements permanently installed and sold by Declarant as a part thereof, and all Common Areas in the Regime, in an amount equal to the full replacement cost thereof from time to time, as determined by a qualified appraiser. Such insurance shall be in the form of a master casualty policy for the entire Regime and shall contain the following endorsements, if and to the extent obtainable at a reasonable cost in the State of Indiana: (i) replacement cost; (ii) inflation guard; (iii) demolition cost, contingent liability, and increased construction cost in connection with building code requirements; (iv) steam boiler coverage (if applicable); and (v) all matters customarily covered under a "special condominium endorsement." All such policies shall provide that notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Owners do not elect to restore pursuant to Section 19. In the event that all or any portion of the Regime shall be determined to be in a flood hazard zone, the Association shall also obtain a master policy of flood insurance on the Dwelling Units, Buildings, and Common Areas

within such flood hazard zone, in an amount at least equal to the lesser of 100% of the current replacement cost of all insurable property within the flood hazard area or the maximum coverage available for such property under the National Flood Insurance Program. The amount of coverage shall be increased from time to time to cover all additions to the Regime, and all such policies shall meet the requirements of subsection E. of this Section. The proceeds shall be payable to the Association, who shall hold and apply such proceeds as trustee for the individual Owners and Mortgagees, as their respective interests shall appear. The proceeds shall be used or disbursed only in accordance with the provisions of this Section 17 and of Section 19 of this Declaration, as applicable, and any surety bond or bonds obtained by the Board of Directors covering the officers of the Regime as provided in subsection D of this Section shall specifically include protections for any insurance proceeds so received.

B. The Association also shall obtain comprehensive public liability insurance together with Workmen's Compensation Insurance, employers liability insurance, and such other liability insurance, with such coverages and limits, as the Board of Directors deems appropriate; provided, however, that public liability insurance shall have liability limits of not less than Three Million Dollars (\$3,000,000.00) for personal injury and One Million Dollars (\$1,000,000.00) for property damage; and provided further, that all such policies shall meet the requirements of Subsection E of this Section 17. Such insurance shall inure to the benefit of each individual Owner, the Association, the Board of Directors, and any managing agent or company acting on behalf of the Association. The individual Owners, as well as any lessees of any Owners, shall have the right to recover losses insured for their benefit.

C. Each Owner shall have the right to purchase any additional insurance as he may deem necessary, and each Owner shall be solely responsible for loss of or damage to the contents of his own Dwelling Unit, however caused, including all floor and wall coverings, appliances, fixtures, and betterments installed by the Owner, and for loss of or damage to any of his personal property, whether or not stored or kept in his own Dwelling Unit. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk.

D. The Association shall obtain a fidelity bond indemnifying the Association, the Board of Directors, and the Co-Owners for loss of funds resulting from fraudulent or dishonest acts of any employee or officer of the Association or of any other person handling the funds of the Association or the Co-Owners, which bond shall be written in an amount equal to at least One Hundred Fifty Percent (150%) of the annual Common Expenses.

E. All policies of insurance of the character described in subsections A and B of this Section 17 shall contain an endorsement or clause whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, the Board of Directors, the Declarant, any Managing Agent, their respective employees and agents, or the Owners, and shall further contain a clause whereby the insurer waives any defenses based on acts of individual Owners whose interests are insured thereunder, and shall cover claims of one or more insured parties against other insured parties. All such policies shall name the Association, for the use and benefit of the Owners, as the insured; shall provide that the coverage thereunder is primary even if an Owner has other insurance covering the same loss; shall show the Association or insurance trustee, in trust for each Owner and Mortgagee, as the party to

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which proceeds shall be payable; shall contain a standard mortgage clause and name FNMA and all Mortgagees as mortgagee; and shall prohibit any cancellation or substantial modification to coverage without at least ten (10) day's prior written notice to the Association and to the Mortgagees. All policies of insurance maintained by the Association pursuant to this Section 17 shall provide such coverages and be in such amounts as may be required from time to time by FNMA, FHLMC, FHA or VA. Upon obtaining or changing any policies of insurance authorized or required by this Section 17, notice of the same shall be sent by the Secretary of the Association to each Owner and each Mortgagee whose interest may be affected thereby.

Section 18. Condemnation. In the event that all or any part of the Regime shall be taken or condemned by any competent authority, or if any condemnation proceeding shall be instituted with respect to all or any part of the Regime, the Association shall have the right to appear and defend in such proceedings on behalf of the Owners affected thereby and to prosecute on behalf of any such Owners any action or proceeding, at law or in equity, as it may deem appropriate for the adequate protection and compensation of all Owners affected by any confiscatory act of any public body. The proceeds obtained by the Association as a result of any such action or proceeding shall be received by the Association and shall be applied by the Association as follows: (a) the portion of such award which is allocated by the court making such award, or if not so allocated, then as determined by a two-thirds (2/3) majority of the Percentage Vote at a special meeting called for the purpose of making such allocation, to the buildings or units taken (such portion hereinafter called the "Building Award"), shall be distributed among the Owners whose Dwelling Units were taken in proportion to the relative fair market values of the Dwelling Units so taken as of the date of such taking, or if such values cannot be determined, then equally among such Owners; (b) the balance of such award after payment of the Building Award shall be paid, first, to reimburse the Association for its costs and expenses in obtaining such award, and the balance, if any, shall be paid to each Co-Owner in the Regime in proportion to his Percentage Interest. No amounts or damages shall be paid by the Association to any Owner for any partial taking, partial loss of use, or impedance of access as to any Dwelling Unit, except to the extent that the amount of any such award is specifically determined by the court making such award or by a two-thirds (2/3) vote of the Association. Nothing in this Section 18 shall be construed to prevent any Owner affected by any condemnation or confiscatory action of any public body from participating in any condemnation proceedings or from prosecuting any action for any recovery for any confiscation of his property, but such Owner shall not be entitled to distribution out of the proceeds received by the Association to the extent that such Owner recovers sums or compensation for the same or similar damages as are the basis of the award to the Association. Nothing herein contained shall be construed to require payment of proceeds to an Owner in derogation of any rights such Owner's Mortgagee may have to such proceeds.

Section 19. Casualty and Restoration. In the event of any damage to or destruction of the Property by fire or other casualty, the following provisions shall be applicable:

- (a) Partial Destruction. In the event of less than complete destruction (as defined in subsection (b) hereinbelow) of the Dwelling Units in all Buildings, all Dwelling Units and other Property shall be promptly repaired and restored. The proceeds of the insurance shall be applied to the

cost of such repair and restoration. If the insurance proceeds are not adequate to cover the cost of reconstruction or in the event there are no proceeds, the amounts needed to complete the repair and restoration beyond available insurance proceeds shall be paid by all Co-owners as a Common Expense. The application and use of such proceeds shall be determined by the Board of Directors of the Association acting as trustee under Section 17.A., or by any Mortgagee electing to act as trustee in place of the Association, and when so determined in good faith shall be binding upon all Owners and Mortgagees.

- (b) Restoration in the Event of Complete Destruction. In the event that two-thirds or more of the Dwelling Units in the Regime are damaged or destroyed by fire or other casualty, a special meeting of the Association shall be called. If, at that meeting, a determination is made, by vote of at least a two-thirds (2/3) majority of the Percentage Votes of all Owners in the Regime, that a complete destruction has occurred so that the Buildings and other Property in the Regime shall not be repaired or restored, then the proceeds of insurance and the Property in the Regime shall be dealt with and disposed of in accordance with Sections 19 and 21 of the Act, as either may be amended from time to time, or in accordance with any substitute provisions governing such matters as may be enacted subsequent to the date of this Declaration, with distributions of proceeds to be made to the Owners in proportion to the relative fair market values of their respective Dwelling Units as of the date of such destruction, if and to the extent and values can be determined and if and to the extent such distribution is permitted by applicable law.
- (c) Restoration, for purposes of subparagraphs (a) and (b) above, shall mean construction or rebuilding of the Dwelling Units and other Property to substantially the same condition as they existed immediately prior to the destruction and with a similar quality of materials and workmanship and similar type of design and architecture, but excluding all improvements and property added to or kept in or about such Dwelling Units by any Owner.
- (d) In the event restoration of Dwelling Units is necessary, and notwithstanding any provision in Sections 17 or 19 of this Declaration to the contrary, the insurance funds for such restoration shall be disbursed by any Mortgagee (if it elects to do so) which holds mortgages on 51% or more of the number of Dwelling Units that need to be restored; otherwise, the insurance funds shall be disbursed by the Association. Such distribution and payment of funds shall be in the manner and in accordance with the procedure normally used when disbursing funds for initial construction. Each insurer shall be notified of this provision by the Association and each policy of insurance shall comply herewith. Nothing contained in Sections 17 or 19 shall be construed to require payment of any proceeds to an Owner in derogation of any rights such Owner's Mortgagee may have to such proceeds.

Section 20. Negligence. Each Owner shall be liable for the expense of any maintenance, repair, or replacement of any of the Property which becomes necessary by reason of his negligence or that of any member of his family or his or their guests, employees, agents, or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Association. An Owner shall pay the amount of any increase in insurance premiums occasioned by his use, misuse, occupancy, or abandonment of his Dwelling Unit or its appurtenances or of the Common Areas.

Section 21. Real Estate Taxes. Real estate taxes are to be separately taxed to each Dwelling Unit and the Percentage Interest connected therewith, as provided in the Act. In the event that for any year real estate taxes are not separately assessed and taxed to each Dwelling Unit, but are assessed and taxed on the Tract as a whole, then each Owner shall pay his proportionate share of the real estate taxes. Each Owner's proportionate share will be equal to the Percentage Interest then appurtenant to the Owner's Dwelling Unit due and payable in such year. Declarant will pay the taxes on any portion of the Tract not annexed, until any such portion is annexed, at which time the Owners will pay all of same according to their respective Percentage Interests. The worksheets of the Center Township Assessor shall be used to determine assessment valuation for purposes of this Section 21.

Section 22. Utilities. Each Owner shall pay for those utilities provided to his Dwelling Unit which are separately billed or metered for his Dwelling Unit. Utilities which are not separately billed or metered shall be treated and paid as part of the Common Expenses.

Section 23. Use and Sale of Dwelling Units. For the purpose of maintaining the residential character of the Regime, and for the protection of the Co-Owners, Declarant specifically reserves the mode and method of the original sale of each Dwelling Unit until the last Dwelling Unit in the Regime is sold. Declarant may designate any Dwelling Unit owned by Declarant for location of a sales and/or management office, but no more than one Dwelling Unit within the Regime shall be reserved for such purpose at any one time. The Dwelling Unit so designated may also be used, at the option of Declarant, as a furnished or unfurnished model, and Declarant may further designate from time to time, at its option, any other Dwelling Units in the Regime owned by Declarant, for use as furnished or unfurnished models. Any Dwelling Unit designated by Declarant for use as a model and/or as a sales and management office may, at Declarant's option, either be owned by Declarant or sold and leased back by Declarant for such purpose, and such leaseback may be for any term desired by Declarant. The right of Declarant to so designate and use such Dwelling Units shall continue so long as Declarant owns or may construct any Dwelling Units within the Tract, and no action of the Association or any Owner shall impair such right. Upon discontinuation of such use by Declarant, each such Dwelling Unit shall not become Common Area, but shall be treated as a Dwelling Unit for all purposes of this Declaration. In addition, Declarant shall be entitled to use any Dwelling Unit owned by it and any portion of the Common Areas for temporary placement of a construction trailer and for temporary storage of construction equipment, materials, and supplies, until such time as construction within the Regime has been completed.

Section 24. Amendment of Declaration. Except as otherwise provided in this Declaration, this Declaration may be amended in the following manner:

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- (a) Notice. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting at which the proposed amendment is considered, including any annual meeting.
- (b) Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Directors or by the Owners of at least a majority of the Percentage Vote.
- (c) Meeting. The resolution concerning a proposed amendment must be adopted by the appropriate majority vote at a meeting duly called and held in accordance with the provisions of the By-Laws.
- (d) Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than a majority of the Percentage Vote. In the event any Dwelling Unit is subject to a mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions of the By-Laws.
- (e) Amendments. No amendment to this Declaration shall be adopted which changes:
- (1) The Percentage Interest with respect to any Dwelling Unit or the share of an Owner's liability for Common Expenses, without the approval of ninety percent (90%) of the Percentage Vote and the approval of all Mortgagees having mortgages on any Dwelling Unit(s) in the Regime, except as otherwise provided in regard to annexation;
 - (2) The provisions of Section 19 of this Declaration with respect to reconstruction or repair in the event of fire or casualty, without the approval of sixty-seven percent (67%) of the Percentage Vote and the unanimous approval of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of the By-Laws;
 - (3) The provisions of Section 15 of this Declaration, except by Declarant in the manner provided therein, so long as the Regime is still subject to expansion; or
 - (4) The provisions of Sections 11, 12, 16, 21, 23, 24, 25, and 26 of this Declaration without the consent of the Declarant so long as the Regime is still subject to expansion; or
 - (5) Any provision of the Declaration or By-Laws which would be deemed to be of a material nature by the Federal National Mortgage Association ("FNMA") under Section 402.02 of Chapter 3 of FNMA's current Lending Guide or any subsequent, relevant guidelines which FNMA may issue, or which would be deemed to be of a material nature under the regulations or requirements of the Veterans

Administration without the approval of at least two-thirds of the Percentage Vote and the approval of all Mortgagees having mortgages on any Dwelling Unit(s) in the Regime.

Any Mortgagee which has been duly notified of the nature of any proposed amendment shall be deemed to have approved the same if said Mortgagee or a representative thereof fails to appear at the meeting in which such amendment is to be considered (if proper notice of such meeting was timely given to such Mortgagee). In the event that a proposed amendment is one permitted by this Section and is deemed by the Board of Directors to be one which is not of a material nature, the Board of Directors shall notify all Mortgagees whose interests have been made known to the Board of Directors of the nature of such proposed amendment, and such amendment shall be conclusively deemed not material if no Mortgagee so notified objects to such proposed amendment within thirty (30) days of the date such notices are mailed and if such notice advises the Mortgagees of the time limitation contained in this sentence.

- (f) Recording. Each amendment to the Declaration shall be executed by Declarant only in any case where Declarant has the right to amend this Declaration without any further consent or approval, and otherwise by the President or Vice President and Secretary or Assistant Secretary of the Association; provided, that any amendment requiring the consent of Declarant shall contain Declarant's signed consent. All amendments shall be recorded in the Office of the Recorder of Marion County, Indiana, and no amendment shall become effective until so recorded.

The Amendments dealing with the Additional Sections and reassignment of Percentage Interests, however, are not subject to the conditions of this Section 24 and may be filed or adopted by the Declarant at any time without any notice to or consent by the Association, any Owner, or any Mortgagee. In addition, the provisions of this Section 24 are subject to the rights given to the Declarant by virtue of the irrevocable proxies held by Declarant on behalf of the respective Owners; as provided in Section 8 hereinabove.

Section 25. Amendments for Mortgage Purchaser. In the event that FNMA, FHLMC, FHA, VA, or other nationally recognized purchaser, guarantor, or insurer of a mortgage of any property in this Regime should impose any requirements pertaining to the attributes of the Regime or the provisions of this Declaration or the By-Laws, for purposes of qualifying for or agreeing to the purchasing, insuring, or guarantying of any such mortgage, the Declarant or Board of Directors may fully satisfy such requirements, and shall have the right to amend this Declaration in accordance therewith, without the approval or consent of any Owner or Mortgagee.

Section 26. Reservation of Rights. Declarant reserves the right to amend this Declaration without consent of the respective Owners or the Association until the control of the Regime is turned over to the Association, provided that no such amendment shall materially impair the rights of any Mortgagee, nor substantially deprive the Co-owners, or any of them, of the rights conferred upon them by this Declaration or the By-Laws.

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Section 27. Enforcement of Covenants and Restrictions.

The various covenants and restrictions applicable to the use and enjoyment of the Dwelling Units, as set forth in this Declaration, are for the mutual benefit and protection of the present and future Owners and shall run with the land and shall be binding upon and inure to the benefit of every Owner, the Co-Owners, or the Board of Directors on behalf of the Association, and their respective heirs, successors and assigns. Available relief in any action brought to enforce this Declaration shall include damages and injunctive relief against any violation or attempted violation of these provisions, and the recovery of any damages, costs, interest on expenses incurred, and attorneys' fees incurred by any party successfully enforcing this Declaration against any other party, but there shall be no right of reversion or forfeiture of title resulting from any violation. In addition, the Board of Directors is hereby authorized, during the period of any default or delinquency, to take actions to enforce compliance with such provisions, rules, regulations or decisions, including, without limitation: (i) the revocation of a defaulting Owner's right to use General Common Areas designed for recreational purposes, and (ii) the suspension of a defaulting Owner's voting privileges; provided, however, that no such enforcement action shall affect the rights of a Mortgagee hereunder.

Section 28. Costs and Attorneys' Fees. In a proceeding arising because of an alleged failure of an Owner to make any required payments or to comply with any provision of the Declaration, the Act, the By-Laws, or the rules and regulations adopted pursuant thereto, as each may be amended from time to time, the party initiating such proceeding shall be entitled to recover its reasonable attorneys' fees incurred in connection with such proceeding, if it is found or agreed in such proceeding that a failure to make payment as required hereby or a violation of this Declaration, the Act, the By-Laws, or the rules and regulations adopted pursuant thereto, as each may be amended from time to time, did occur.

Section 29. Acceptance and Ratification. All present and future Owners, Mortgagees, tenants, and occupants of the Dwelling Units shall be subject to and shall comply with the provisions of this Declaration, the Act, the By-Laws, and the rules and regulations as adopted by the Board of Directors, as each may be amended from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Dwelling Unit shall constitute an agreement that the provisions of this Declaration, the Amendments, the Act, the By-Laws, and any rules and regulations adopted pursuant thereto, as each may be amended from time to time, are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Dwelling Unit or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. Each Owner agrees to execute and deliver such other documents, if any, as may be necessary or desirable to comply with the Act as it may be amended from time to time. All persons, corporations, partnerships, trusts, associations, or other legal entities who may occupy, use, enjoy or control a Dwelling Unit or Dwelling Units or any part of the Property in any manner shall be subject to the Declaration, the Act, the By-Laws, and the Rules and regulations applicable thereto, as each may be amended from time to time.

Section 30. Waiver. No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or by abandonment of his Dwelling Unit. The Association does not waive the right to hold a lien on the Dwelling Unit and foreclose same by any failure to take action when any payment of any Assessment is not timely made when due by any Owner.

Section 31. Construction and Severability. This Declaration and the By-Laws are intended to comply with the provisions of the Act, and shall be construed whenever possible to be consistent therewith. The invalidity of any covenant, restriction, condition, limitation, or other provision of this Declaration or the By-Laws filed herewith shall not impair or affect in any manner the validity, enforceability, or effect of the rest of this Declaration or the attached By-Laws. If any of the options, privileges, covenants, rights, or interests created by this Declaration would otherwise be unlawful or void for violation of (a) the rule against perpetuities or any analogous statutory provisions, (b) the rule restricting restraints or alienation, or (c) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the date of the Declaration.

Section 32. Floor Plans. The Plans pertaining to the Tract, as described in Section 1(u) of this Declaration, shall be recorded from time to time as Declarant elects, subject to the restrictions and conditions contained in this Declaration, and upon such recordation, the Dwelling Units depicted therein shall be subject to horizontal property ownership and become a part of the Regime.

Section 33. Notices. Any notice required or permitted to be sent under this Declaration or the By-Laws shall be sufficient if delivered personally or sent by first-class U. S. Mail, postage prepaid, to the address shown on the records of the Association; provided, however, that notices to Mortgagees shall be sent by U. S. Certified Mail, Return Receipt Requested, or by U. S. Registered Mail, and shall not be deemed delivered unless and until actually received by the Mortgagee.

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed the day, month and year first above written.

RENAISSANCE COMMONS DEVELOPMENT CORPORATION

By: Mark P. Beery
Mark P. Beery, President

ATTEST:

Stephen W. Sutherlin
Stephen W. Sutherlin,
Secretary

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STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Mark P. Beery, the President, and Stephen W. Sutherlin, the Secretary, respectively, of RENAISSANCE COMMONS DEVELOPMENT CORPORATION who acknowledged the execution of the above and foregoing Declaration of Barrington Commons Horizontal Property Regime for and on behalf of said Corporation.

Witness my hand and Notarial Seal this 23rd day of September 1985.



Signature Sarah F. Harkness

Printed Sarah F. Harkness
Notary Public

My Commission Expires:
4/23/88

Resident of Hamilton County

This instrument was prepared by Scott A. Lindquist, ICE MILLER DONADIO & RYAN, One American Square, Box 82001, Indianapolis, Indiana 46282; telephone: (317) 236-2100.

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EXHIBIT " A " (PAGE 1 OF 1)

I, the undersigned Registered Land Surveyor, do hereby certify that I conducted a boundary survey under my direct supervision and to the best of my professional knowledge, information and belief this drawing is an accurate representation of that survey of Lots 6, 7, 8 and a part of Lot 5 in Bird's Subdivision of Out-Lot 178 of the Donation Lands of the City of Indianapolis, as per plat thereof recorded in Land Record T, Page 628 in the office of the Recorder of Marion County, Indiana and Lot 22 in William Youngs Corrected Subdivision of Out-Lot 11 of the Donation Land of the City of Indianapolis as per plat thereof recorded in Plat Book 1, Pages 41 & 42 in the office of the Recorder of Marion County, Indiana; all being in Marion County, Indiana and being more particularly described as follows:

BEGINNING at the southeast corner of said Lot 8; thence north $00^{\circ} 00' 00''$ east (assumed bearing) along the east line of said Lot 8 a distance of 20.00 feet to the southwest corner of said Lot 22; thence north $89^{\circ} 58' 11''$ east along the south line of said Lot 22 a distance of 37.79 feet measured (40.00 feet platted) to the southeast corner of said Lot 22; thence north $00^{\circ} 00' 00''$ east along the east line of said Lot 22 a distance of 120.00 feet to the northeast corner of said Lot 22; thence south $89^{\circ} 58' 11''$ west along the north line of said Lot 22 a distance of 37.79 feet measured (40.00 feet platted) to the northwest corner of said Lot 22, said point also being on the east line of said Lot 5; thence north $00^{\circ} 00' 00''$ east along the east line of said Lot 5 a distance of 16.00 feet to a point which is 18.00 feet north of the southeast corner of said Lot 5; thence south $89^{\circ} 58' 11''$ west parallel to the south line of said Lot 5 a distance of 180.11 feet measured (180.00 feet platted) to the west line of said Lot 5; thence south $00^{\circ} 06' 56''$ east along the west line of said Lot 5 and along the west line of Lots 6 & 7 a distance of 87.00 feet to the point of curvature of a curve to the left whose radius bears north $81^{\circ} 53' 01''$ east a distance of 141.00 feet and whose central angle is $10^{\circ} 58' 02''$, said point of curvature being on the boundary of a grant being to the City of Indianapolis for the opening and widening of East Street as shown in proceedings recorded in Mortgage Record 1968, Page 473 in the office of the Recorder of Marion County, Indiana; thence southeasterly along the arc of said curve and along the boundaries of said Mortgage Record a distance of 76.21 feet to the intersection of said arc with the south line of said Lot 8, said point being 10.0 feet east of the southwest corner of Lot 8 as per said plat; thence north $89^{\circ} 58' 11''$ east along the south line of said Lot 8 a distance of 150.00 feet to the POINT OF BEGINNING. Subject to all legal highways, rights-of-way, easements and restrictions of record.

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CODE OF BY-LAWS OF
BARRINGTON COMMONS CO OWNERS ASSOCIATION, INC.
AN INDIANA NOT-FOR-PROFIT CORPORATION

ARTICLE I

Identification and Applicability

Section 1.01. Identification and Adoption. These By-Laws are adopted simultaneously with the execution of a certain Declaration of Barrington Commons Horizontal Property Regime, to which these By-Laws are attached and of which they are made a part. The Declaration is incorporated herein by reference and all of the covenants, conditions, rights, restrictions, and liabilities therein contained shall apply to and govern the interpretation of these By-Laws. The definitions and terms as defined and used in the Declaration shall have the same meanings in these By-Laws, and reference is hereby made to the definitions in Section 1 of the Declaration. The provisions of these By-Laws shall apply to the Property and to the administration and conduct of the affairs of the Association.

Section 1.02. Individual Application. All of the Owners, tenants, their guests and invitees, or any other person who might now or hereafter use or occupy a Dwelling Unit or any part of the Property shall be subject to the rules, restrictions, terms and conditions set forth in the Declaration, these By-Laws, and the Act, as the same may be amended from time to time.

ARTICLE II

Meetings of Association

Section 2.01. Purpose of Meetings. At least annually and at such other times as may be necessary or appropriate, a meeting of the Co-owners shall be held for the purpose of electing the Board of Directors, approving the annual budget, providing for the collection of Common Expenses, and for such other purposes as may be required by the Declaration, these By-Laws, or the Act.

Section 2.02. Annual Meetings. The first annual meeting shall not be held until the time of turnover of control of the Regime by Declarant or at such earlier time or times as may be determined by the Declarant. All subsequent annual meetings shall be held on any date selected by the Board of Directors which is within five (5) days of the anniversary of the first annual meeting. At each annual meeting, the Co-owners shall elect the Board of Directors of the Association in accordance with the provisions of these By-Laws and transact such other business as may properly come before the meeting.

Section 2.03. Special Meetings. A special meeting of the members of the Association may be called by resolution of the Board of Directors or upon a written petition of the Co-owners who have not less than ten percent (10%) of the Percentage Vote. The resolution or petition shall be presented to the President or Secretary of the Association and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

Section 2.04. Notice and Place of Meetings. All meetings of the members of the Association shall be held at such location within the State of Indiana as may be designated by the Board of Directors. Written notice stating the date, time,

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CODE OF BY-LAWS OF
BARRINGTON COMMONS CO-OWNERS ASSOCIATION, INC.
AN INDIANA NOT-FOR-PROFIT CORPORATION

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place of any meeting, and in the case of a special meeting the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Association to each Co-owner and, if applicable, to any Mortgagee not less than fourteen (14) days prior to the date of such meeting. If at any meeting an amendment to the Declaration or these By-Laws is to be considered, the notice of such meeting shall describe the nature of such proposed amendment. The notice shall be mailed by first-class U. S. Mail, postage prepaid, or delivered to the Co-owners at their respective addresses as the same shall appear upon the records of the Association, and by U.S. Certified Mail, Return Receipt Requested to the Mortgagees at their respective addresses as they shall appear on the records of the Association, by such means as provided in Section 33 of the Declaration. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

Section 2.05. Voting.

(a) Number of Votes. To avoid fractional votes and to facilitate the orderly conduct of the meeting, each Owner shall be entitled to cast one vote on each matter coming before the meeting. The total number of votes for or against any matter shall then be divided by the number of Dwelling Units then in the Regime to determine the respective proportions of Co-owners supporting or opposing such matter.

(b) Multiple Owners. When the Owner of a Dwelling Unit constitutes more than one person or entity, or is a partnership, there shall be only one voting representative entitled to cast the Percentage Vote allocable to that Dwelling Unit. At the time of acquisition of title to a Dwelling Unit by a multiple Owner or a partnership, those persons constituting such Owner or the partners shall file with the Secretary of the Association an irrevocable proxy appointing one of such persons or partners as the voting representative for such Dwelling Unit, which shall remain in effect until such appointed representative relinquishes such appointment in writing, becomes incompetent, dies, or such appointment is otherwise rescinded by order of a court of competent jurisdiction. Such appointed voting representative may grant a proxy to another to vote in his place at a particular meeting or meetings pursuant to paragraph (d) of this Section 2.05, which shall constitute relinquishment of his right to act as voting representative for the Dwelling Unit at such meeting or meetings.

(c) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustees may cast the vote on behalf of the trust, and the agent or other representative of the corporation duly empowered by the board of directors of such corporation shall cast the vote to which the corporation is entitled.

(d) Proxy. An Owner may vote either in person or by his duly authorized and designated attorney-in-fact. Where voting is by proxy, the Owner shall duly designate his attorney-in-fact in writing, delivered to an officer of the Association prior to the commencement of the meeting.

(e) Quorum. Except where otherwise expressly provided in the Declaration, these By-Laws, or the Act, the presence of Owners or their duly authorized representatives holding in excess of fifty percent (50%) of the total Percentage Vote shall constitute a quorum at all meetings. The terms "majority of Owners" and "majority of the vote", as used in the e By-Laws, shall mean, unless otherwise expressly indicated, more than fifty percent (50%) of the

total Percentage Vote as determined by the applicable provisions set forth in the Declaration, and shall not mean a majority of the persons or votes present or represented at such meeting.

(f) Conduct of Meeting. The Chairman of the meeting shall be the President of the Association. He shall call the meeting to order at the duly designated time, and business will be conducted in the following order:

- (1) Reading of Minutes. The Secretary shall read the minutes of the last annual meeting and the minutes of any special meeting held subsequent thereto.
- (2) Treasurer's Report. The Treasurer shall report to the Co-owners concerning the financial condition of the Association and answer relevant questions of the Owners concerning the Common Expenses and financial report for the prior year and the proposed budget for the current year.
- (3) Budget. The proposed budget for the current calendar year shall be presented to the Co-owners for approval or amendment.
- (4) Election of Board of Directors. Nominations for the Board of Directors may be made by an Owner from those persons eligible to serve. Such nominations must be in writing and presented to the Secretary of the Association at least ten (10) days prior to the annual meeting. Voting for Board of Directors will be by paper ballot. The ballot shall contain the name of each person nominated to serve as a Board member. Each Owner may cast his Percentage Vote for each of as many nominees as are to be elected; however, he shall not be entitled to accumulate his votes. Those persons receiving the highest number of votes shall be elected.
- (5) Other Business. Other business may be brought before the meeting only upon a written request submitted to the Secretary of the Association at least ten (10) days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed by a majority of the vote.
- (6) Committee Reports. Reports of committees designated to supervise and advise on the respective segments of maintenance and operations assigned by the Board of Directors shall be presented.
- (7) Adjournment. Upon completion of all business before the Association, the President, upon the motion of any Owner, may adjourn the meeting; provided, however, that no annual meeting shall be adjourned until a budget is approved by the Co-owners for the upcoming year.

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Section 2.06. Control During Development. Notwithstanding any other provision of the Declaration, the Act, or these By-Laws, from and after the date of the Declaration until the date when Declarant turns over control of the Regime to the Co-owners, as determined by Declarant within the limitations set forth in Section 8 of the Declaration, the Regime shall be governed by the initial Board of Directors appointed by Declarant. Said initial Board of Directors shall exclusively hold all rights and powers which a Board of Directors or the Association would have under the Declaration, the Act, or these By-Laws, except as specifically limited in this Section 2.06. Said initial Board of Directors may appoint from time to time from among the Co-owners committees to advise and assist it in the performance of its functions. The rights and powers of said initial Board of Directors shall be limited as follows:

- (a) The power of assessment shall be limited in that the total monthly assessments in any month against any Dwelling Unit during the first year after the date of the Declaration shall not exceed Fifty Dollars (~~\$ 50.00~~), and said amount shall not be increased in any subsequent year prior to turnover by more than ten percent (10%) over the assessment in the preceding year.
- (b) Said initial Board shall have no power to reallocate Percentage Interests or Percentage Votes in a manner not consistent with the Formula.
- (c) Said initial Board, as such, shall have no power to determine on behalf of the Co-owners whether a complete destruction of the Buildings and other Property within the Regime has occurred, and the Co-owners shall be entitled to vote on such matter in accordance with Section 19 of the Declaration, provided, however, that this shall not prohibit Declarant from voting on such matter according to the Percentage Vote attaching to the Dwelling Units owned by Declarant.
- (d) Said initial Board of Directors shall not take any action requiring the vote or consent of any Mortgagee unless the vote or consent of such Mortgagee is obtained.

Declarant shall have the right to waive, on behalf of the Association, the annual meetings and annual accountings provided for in this Article II and in the Declaration, so long as Declarant retains control of the Association. At the time of turnover of control by Declarant, the first annual meeting of the Association will be called, at which time the rights and powers of the initial Board of Directors shall terminate and the Regime shall thereafter be governed in accordance with the provisions of the Declaration, the Act, and these By-Laws other than this Section 2.05.

ARTICLE III

Board of Directors

Section 3.01. The affairs of the Association shall be governed and managed by the Board of Directors (herein sometimes collectively called "Board" and individually called "Directors"). The initial Board of Directors shall be composed of three (3) persons appointed by Declarant, which persons Declarant shall be entitled to remove and replace from time to

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time. After the expiration of the term of the initial Board of Directors as provided in Section 2.06 hereinabove, the constituency of such Board may be increased to, but shall not exceed, seven (7). The number of Directors shall be increased in accordance with this Section 3.01 only if the increase is properly brought before the Association at an annual meeting or special meeting called for such purpose and approved by a majority of the vote. No person shall be eligible to serve as a Director unless he is an Owner or the agent of an Owner who is not an individual, or is an attorney, agent, or employee of Declarant. Except temporarily due to the resignation, removal, death, or incapacity of a Director, there shall be an odd number of Directors elected to serve on the Board at all times.

Section 3.02. Additional Qualifications. Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then the person entitled to cast the Percentage Vote on behalf of such multiple Owner shall be eligible to serve on the Board of Directors.

Section 3.03. Term of Office and Vacancy. The Board of Directors shall be elected at each annual meeting of the Association subject to the limitations set forth in Section 2.06 above. Any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining Directors or by vote of the Co-owners if a Director is removed in accordance with Section 3.04 of this Article III.

Section 3.04. Removal of Directors. After the tenure of the initial Board of Directors has expired, a Director or Directors may be removed with or without cause by a majority of the vote at a special meeting of the Co-owners duly called and constituted. In such case, his successor shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director selected shall serve until the next annual meeting of the Co-owners or until his successor is duly elected and qualified.

Section 3.05. Duties of the Board of Directors. The Board of Directors shall perform or cause to be performed, when and to the extent deemed necessary or appropriate in the Board's business judgment, the following:

- (a) Repair and replacement of the Common Areas and Limited Areas;
- (b) Procuring of utilities, removal of garbage and waste, and snow removal from the Common Areas;
- (c) Landscaping, painting, decorating, and furnishing of the Common Areas and Limited Areas, the exterior of the Buildings, garages and walls;
- (d) Surfacing, paving, and maintaining streets, parking areas, garages, and sidewalks, and the regulation of the use thereof;
- (e) Assessment and collection from the Owners of the Owner's pro-rata share of the Common Expenses.
- (f) Preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of annual meeting is mailed or delivered;

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- (g) Preparing and delivering annually to the Co-owners a full accounting of all receipts and expenses incurred during each year, which accounting shall be delivered to each Owner simultaneously with delivery of the annual budget;
- (h) Keeping a current, accurate, and detailed record of receipts and expenditures affecting the Property, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an Owner at any time during normal business hours.
- (i) Procuring and maintaining in force all insurance coverage required by the Declaration to be maintained for the whole Regime as specified by Section 17 of the Declaration.

Section 3.06. Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonably necessary or appropriate to accomplish the performance of their duties. These powers include, but are not limited to, the power:

- (a) To employ a professional managing agent or real estate management company (either being hereinafter referred to as "Managing Agent") to assist the Board in performing its duties;
- (b) To purchase for the benefit of the Co-owners such equipment, materials, labor, and services as may be necessary in the judgment of the Board of Directors;
- (c) To procure for the benefit of the Owners fire and extended coverage insurance covering the Buildings and the Property to the full insurable value thereof, to procure public liability and property damage insurance and Workmen's Compensation insurance, if necessary, and to procure all such other insurance as is required or permitted under the Declaration, for the benefit of the Owners and the Association;
- (d) To employ legal counsel, architects, contractors, accountants, and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Association;
- (e) To include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom;
- (f) To open and maintain a bank account or accounts in the name of the Association; and
- (g) To adopt, revise, amend, and alter from time to time reasonable rules and regulations with respect to use, occupancy, operation, and enjoyment of the Property; provided that the Board shall give written notice to the Co-owners of such rules and any revision, amendment, or alteration thereof.

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Section 3.07. Limitations on Board Action. After the tenure of the initial Board of Directors, the authority of the Board of Directors to enter into contract shall be limited to contracts involving a total expenditure of less than Five Thousand Dollars (\$5,000.00), unless the prior approval of a majority of Owners present or represented at any meeting is obtained, except in the following cases:

- (a) Supervision and management of the replacement or restoration of any portion of the Common Areas damaged or destroyed by fire or other casualty, where the cost thereof is payable out of insurance proceeds actually received; and,
- (b) Proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Co-owners at the annual meeting.

Section 3.08. Compensation. No Director shall receive any compensation for his services as such except to such extent as may be expressly authorized by a majority of the Owners.

Section 3.09. Meetings. Regular meetings of the Board of Directors maybe held at such time and place as shall be determined from time to time by a majority of Directors. The Secretary shall give notice of regular meetings of the Board to each Director personally or by United States mail at least five (5) days prior to the date of such meetings. At any time after the tenure of the initial Board of Directors has expired, a special meeting of the Board may be called by the President or any two members of the Board. The person or persons calling such meeting shall give written notice thereof to the Secretary, who shall either personally or by mail and at least three (3) days prior to the date of such special meeting, give notice to the Board members. The notice of the meeting shall contain a statement of the purpose for which the meeting is called. Such meeting shall be held at such place as shall be designated in the notice.

Section 3.10. Waiver of Notice. Before any meeting of the Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Director at a meeting shall, as to such Director, constitute a waiver of notice of the time, place, and purpose thereof. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

ARTICLE IV

Officers

Section 4.01. Officers of the Association. The principal officers of the Association shall be the President, Vice-President, Secretary and Treasurer, all of whom shall be elected by the Board. The Directors may appoint an Assistant Treasurer and an Assistant Secretary and such other officers as in their judgment may be necessary. Any two or more offices may be held by the same person, except that the duties of the President and Secretary shall not be performed by the same person.

Section 4.02. Election of Officers. The officers of the Association shall be elected annually by the Board at the first

meeting of the Board following each election thereof. Upon recommendation of a majority of all members of the Board and upon an affirmative vote of a majority of all Owners, any officer may be removed either with or without cause and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 4.03. The President. The President shall be elected from among the Directors and shall be the chief executive officer of the Association. After the tenure of the initial Board of Directors, he shall preside at all meetings of the Association and of the Board, shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of an association or a stock corporation organized under the laws of Indiana, including, but not limited to, the power to appoint committees from among the Co-owners as he may deem necessary to assist in the affairs of the Association and to perform such other duties as the Board may from time to time prescribe.

Section 4.04. The Vice-President. The Vice-President shall be elected from among the Directors and shall perform all duties incumbent upon the President during the absence or disability of the President. The Vice-President shall also perform such other duties as these By-Laws may prescribe or as shall, from time to time, be imposed upon him by the Board or by the President.

Section 4.05. The Secretary. The Secretary shall be elected from among the Owners or Directors. The Secretary shall attend all meetings of the Association and of the Board and shall keep or cause to be kept a true and complete record of proceedings of such meetings, shall perform all other duties incident to the office of the Secretary, and such other duties as from time to time may be prescribed by the Board. The Secretary shall specifically see that all notices of the Association or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-Laws.

Section 4.06. The Treasurer. The Board shall elect from among the Owners or Directors a Treasurer who shall maintain a correct and complete record of account showing accurately at all times the financial condition of the Association and such other duties incident to the office of Treasurer. He shall be legal custodian of all monies, notes, securities, and other valuables which may from time to time come into possession of the Association. He shall immediately deposit all funds of the Association coming into his hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account in the name and for the exclusive benefit of the Association.

Section 4.07. Assistant Officers. The Board of Directors may from time to time designate and elect from among the Co-owners an Assistant Secretary and Assistant Treasurer, who shall have such powers and duties as the Officers whom they are elected to assist shall delegate to them and such other powers and duties as these By-Laws or the Board of Directors may prescribe.

ARTICLE V

Additional Rights and Duties of Board

Section 5.01. Right of Entry. An Owner or occupant of a Dwelling Unit shall be deemed to have granted the right of entry to his Dwelling Unit to the Board, the Managing Agent, or any person authorized by the Board in case of any emergency, in

order to remedy any circumstance threatening his Dwelling Unit, the Building in which it is located, or any person, whether the Owner is present at the time or not. Any Owner shall permit persons authorized by the Board to perform any work, when required, to enter his Dwelling Unit for the purpose of performing installations, alterations, or repairs to the mechanical or electrical facilities or equipment, or to make structural repairs, provided that requests for entry are made in advance and that such entry is at a time convenient to the Owner. In case of emergencies, such right of entry shall be immediate.

Section 5.02. Right of Board to Adopt Rules and Regulations. The Board may promulgate such reasonable rules and regulations regarding the operation of the Property as the Board may deem desirable, including but not limited to the use of the General Common Areas and Limited Areas. Such rules as are adopted may be repealed or amended by a vote of a majority of the Board. The Board shall cause copies of all such rules and regulations, including any amendments or repeals thereof, to be delivered or mailed promptly to all Owners at least fifteen (15) days prior to the effective date thereof. Any rule or regulation promulgated by the Board shall be properly and consistently enforced by the Board.

ARTICLE VI

Procedures for Assessments

Section 6.01. Annual Accounting. Annually, after the close of each calendar year and prior to the date for notice of the annual meeting of the Association, the Board of Directors shall cause to be prepared and furnished to each Owner a financial statement by an independent Certified Public Accountant, which statement shall show all receipts and expenses received, incurred, and paid by the Association during the preceding calendar year.

Section 6.02. Proposed Annual Budget. Annually, on or before the date for notice of the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget for the ensuing calendar year estimating the total amount of the Common Expenses for the ensuing year, and furnish a copy of such proposed budget to each Owner prior to the annual meeting. The proposed annual budget shall be submitted to the Co-owners at the annual meeting of the Association for adoption, and if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the ensuing calendar year. At the annual meeting of the Co-owners, the proposed annual budget may be approved in whole or in part, or may be amended in whole or in part, by a majority of the vote present or represented at the meeting (provided a quorum is present); provided, however, that in no event shall the annual meeting of the Co-owners be adjourned until an annual budget is approved at such meeting.

Section 6.03. Regular Assessments. The annual budget as adopted shall, based on the estimated cash requirement for the Common Expenses in the ensuing year as set forth in said budget, contain a proposed assessment against each Dwelling Unit based on the Percentage Interest of each Dwelling Unit times the total amount of said budget (herein called the "Regular Assessment"). The Regular Assessment against each Unit shall be paid in twelve (12) equal monthly installments, commencing on the first day of the January immediately following adoption and continuing on the first day of each calendar month thereafter. Payment of the monthly installments of the Regular Assessment shall be made to the Board of

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shall continue in effect until such time as the annual budget and annual Assessments are determined in accordance with the Declaration and these By-Laws; provided, however, that said preceding budget and Assessments may be increased by up to fifteen percent (15%) as the Board of Directors may deem necessary in said temporary budget and Assessments.

Section 6.07. Reserve and Working Capital Funds. The Association shall be obligated to establish a reserve fund for the repair and replacement of those Common Areas that must be replaced periodically, based upon good faith estimates of the useful lives and replacement costs of such Common Areas made or obtained by the Association. The reserve fund shall be funded through the payments by the Owners of Common Expenses and not by an extraordinary or special assessment. Extraordinary expenditures not originally included in the annual estimate that become necessary during the year shall be charged first against the reserve fund so established before any special Assessment is made or levied therefor. In addition to the reserve fund, a working capital fund shall be established and maintained by the Association. At the closing of the initial sale of each Dwelling Unit to an Owner, the purchaser of such Dwelling Unit shall deposit with the Association an amount equal to two months' installments of the Regular Assessment for Common Expenses for such Dwelling Unit, which amount shall be retained by the Association as working capital. Thereafter, each Owner shall continue to maintain on deposit with the Association an amount at least equal to one-sixth (1/6) of the Regular Assessment for Common Expenses for his Dwelling Unit for the current calendar year. Amounts paid or deposited into the working capital fund shall not relieve an Owner from this responsibility for the Regular Assessments due in accordance with this Article VI. All amounts held by the Association pursuant to this Section 6.07 shall be maintained in a federally-insured, interest-bearing account in a bank or savings and loan association doing business in Marion County, Indiana, and all interest thereon shall be added to and deemed a part of such fund. Notwithstanding anything contained herein to the contrary, the Declarant shall not be required to maintain on deposit with the Association the contribution to the working capital fund described in this Section 6.07; provided, however, that the Declarant shall be obligated to immediately make up any deficiency resulting from the excess of the Declarant's proportionate share of actual Common Expenses over the Declarant's Regular Assessments.

Section 6.08. Status of Funds Collected by Association. All funds collected pursuant to this Article VI shall be held and expended by the Association solely for the purposes designated herein, and, except for any special Assessments that may be levied hereunder against less than all of the Owners, and except for such adjustments as may be required to reflect delinquent or prepaid assessments, shall be deemed to be held for the use, benefit, and account of all of the Owners for the payment of Common Expenses in accordance with the Owners' respective Percentage Interests.

ARTICLE VII

Amendment to By-Laws

These By-Laws may be amended by Declarant in the same manner and to the same extent as the Declaration; in addition, these By-Laws may be amended by a majority of the Percentage Vote in a duly constituted meeting called for such purpose, except that the right of amendment is exclusively reserved to the initial Board of Directors during the period set out in Section 2.06 above, and except as prohibited by any provision of the Declaration, the Act, or these By-Laws, as the same may be amended from time to time.

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ARTICLE VIII

Notices and Mortgagees

Section 8.01. Notice to Association. Any Owner who places a first mortgage lien upon his Dwelling Unit or the Mortgagee thereof shall notify the Secretary of the Association and provide the name and address of the Mortgagee. A record of such Mortgagee and name required to be given to the Mortgagee pursuant to the terms of the Declaration or these By-Laws shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgages and the name and address of the Mortgagee are furnished to the Secretary, either by Owner or by the Mortgagee, no notice to any Mortgagee as may be otherwise required by the Declaration or these By-Laws shall be required, and no Mortgagee shall be entitled to vote on any matter on which he otherwise may be entitled to vote by virtue of the Declaration or By-Laws or proxy granted to such Mortgagee in connection with the mortgage.

Section 8.02. Notice of Assessments. Upon ten (10) days written notice to the Association and the payment of a reasonable fee, the Association shall deliver to any Owner, Mortgagee, prospective Mortgagee, title insurance company, purchaser or other prospective transferee of a Dwelling Unit, a written statement setting forth the amount of all unpaid assessments, if any, with respect to the subject Dwelling Unit, together with the amount of the current assessments for Common Expenses and the date(s) such assessments become due and payable. Any such written statement shall be binding upon the Association in favor of any person relying thereon in good faith.

Section 8.03. Financial Statements. The Association, upon the request of any Mortgagee, shall provide to said Mortgagee the most recent financial statement prepared on behalf of the Association pursuant to Section 5.02 of these By-Laws.

Section 8.04. Notices to Mortgagees. The Association shall promptly provide to any Mortgagee of whom the Association has been provided notice under Section 8.01 of these By-Laws of any of the following:

- (a) Any condemnation or casualty loss that affects either a material portion of the Regime or the Dwelling Unit securing its mortgage;
- (b) Any delinquency in the payment of Regular or Special Assessments owed by the Owner of any Dwelling Unit on which said holder, insurer, or guarantor holds a mortgage, if said delinquency continues for more than sixty (60) days;
- (c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and,
- (d) Any proposed action that requires the consent of a specified percentage of Mortgagees.

Section 8.05. Availability of Information. The Association shall keep and shall make available to prospective purchasers of Dwelling Units, upon request at reasonable business hours, copies of the Declaration, By-Laws, current rules and regulations, if any, and the most recent financial statement of the Association.

850094537

CERTIFICATION

The undersigned, being first duly sworn, hereby certifies that the within and foregoing Code of By-Laws of Barrington Commons Co-Owners Association, Inc. are true and correct.

Step W. Sutherclaus
(signature)

STEPHEN W. SUTHERCLAUS, SECY.
(printed name and title)

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Subscribed and sworn to before me, a Notary Public, in and for said County and State this 16th day of October, 1985.

Grace E. Runyan, Notary Public
State of Indiana at Large
Resident of Marion County
My Commission expires
Jan. 20, 1986

Signature: Grace E. Runyan

Printed: _____
NOTARY PUBLIC

My Commission Expires: _____

Resident of _____ County

CONSENT AND SUBORDINATION

Merchants National Bank & Trust Company of Indianapolis ("Construction Lender") hereby consents to the recordation of the foregoing Declaration of Barrington Commons Horizontal Property Regime and By-Laws of Barrington Commons Co-Owners Association, Inc. and agrees that its interest in the Real Estate is and shall be subject to the terms and provisions of said Declaration and By-Laws, and that as portions of the Tract are made a part of the Barrington Commons Horizontal Property Regime pursuant to the Declaration, its interest in such portions shall also be subject to the terms and provisions of said Declaration and By-Laws. Said Declaration and By-Laws shall not be amended without the consent of Construction Lender, so long as Construction Lender holds any interest in the Tract or any Dwelling Unit(s) thereon, including without limitation any amendment(s) under Sections 15.E., 24, or 32 of the Declaration.

MERCHANTS NATIONAL BANK & TRUST
COMPANY OF INDIANAPOLIS

By: Darwin D. May
(Signature)

Darwin D. May, V.P.
(Printed Name and Title)

85C094537

Attest: James A. Buell
(Signature)

James A. Buell Assistant Vice President
(Printed Name and Title)

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State personally appeared Darwin D. May and James A. Buell, the Vice President and Assistant Vice President respectively of Merchants National Bank & Trust Company of Indianapolis and acknowledged the execution of the foregoing Consent and Subordination as such officers acting for and on behalf of said corporation.

Witness my hand and Notarial Seal this 22nd day of October, 1985.

Signature: Cynthia K. Corey

Printed: Cynthia K. Corey

NOTARY PUBLIC

My Commission Expires:

11-19-88

Resident of Marion County

Prepared by Scott A. Lindquist, ICE MILLER DONADIO & RYAN,
One American Square, Box 82001, Indianapolis, Indiana 46282.

856084537

CROSS REFERENCE

860029487

7.50
②

FIRST AMENDMENT TO
DECLARATION OF BARRINGTON COMMONS
HORIZONTAL PROPERTY REGIME

THIS FIRST AMENDMENT TO DECLARATION OF BARRINGTON COMMONS
HORIZONTAL PROPERTY REGIME ("First Amendment"), made as of this
8th day of April, 1986, by Renaissance Commons Develop-
ment Corporation ("Declarant")

WITNESSES THAT:

WHEREAS, Declarant is the owner of certain real property
in Indianapolis, Indiana submitted to horizontal property owner-
ship under that certain Declaration of Barrington Commons
Horizontal Property Regime, recorded October 29, 1985 as
Instrument No. 85-94537 in the office of the Recorder of Marion
County, Indiana ("Declaration") and is the Declarant under said
Declaration; and,

WHEREAS, under Section 32 of the Declaration Declarant
reserved the right to record the Plans from time to time to
create horizontal property ownership in the Dwelling Units
and related Property shown therein; and,

WHEREAS, Declarant desires to record Plans for all sixteen
(16) Dwelling Units and related Property which may be added to
the Regime now that the same have been completed;

NOW, THEREFORE, Declarant makes this First Amendment,
and the same is hereby made a part of the Declaration, as follows:

1. Declarant hereby submits to the Regime Dwelling Units
numbered 1 through 16 and all Common Areas and improvements as
shown on the Plans therefor recorded April 10, 1986
as Instrument No. 86- 29486 in the office of the Recorder
of Marion County, Indiana, all located upon the Real Estate
described in said Plans.

2. Pursuant to the Formula provided in the Declaration,
the Percentage Interest appurtenant to each Dwelling Unit
is 6.25%.

IN WITNESS WHEREOF, the Declarant has executed this First
Amendment as of the date first above written.

RENAISSANCE COMMONS DEVELOPMENT
CORPORATION

By: Mark P. Beery
Mark P. Beery, President

RECEIVED FOR RECORD
BETH CO. SUTHERLIN
RECORDED & INDEXED CO.
APR 10 3 32 PM '86

Stephen W. Sutherlin
Stephen W. Sutherlin, Secretary

APR 10 1986 08801
COUNTY CLERK
MARION COUNTY, INDIANA
RECORDED & INDEXED
FOR PAYMENT

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Mark P. Beery and Stephen W. Sutherlin, the President and Secretary, respectively, of Renaissance Commons Development Corporation, a corporation organized and existing under the laws of the State of Indiana, and acknowledged the execution of the foregoing instrument as such officer acting for and on behalf of said corporation.

Witness my hand and Notarial Seal this 8th day of April, 1986.



Signature Sarah F. Harkness
Printed Sarah F. Harkness
NOTARY PUBLIC

My commission expires:

4-23-88

Resident of Hamilton County.

This instrument prepared by Scott A. Lindquist, ICE MILLER DONADIO & RYAN, One American Square, Box 82001, Indianapolis, Indiana 46282.

860029487

ACKNOWLEDGEMENT OF SATISFACTORY COMPLIANCE WITH COVENANTS

860039820

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CROSS REFERENCE

HISTORIC LANDMARKS FOUNDATION OF INDIANA, INC., an Indiana not-for-profit corporation ("Landmarks") hereby acknowledges and agrees that:

WHEREAS, Landmarks conveyed to Renaissance Commons Development Corporation ("Renaissance") certain real property (the "Property") under certain deeds recorded as Instrument Nos. 85-75869, 85-75870, 85-75868, 85-75867, and 85-75866, subject to certain Protective Covenants and Conditions Pertaining to New Construction of Condominium Units (the "Covenants"); and,

WHEREAS, rhetorical paragraphs 1(a) and 1(b) of the Covenants contained certain covenants and obligations upon Renaissance regarding the development of the Property, and Landmarks agreed therein that upon satisfactory completion and performance thereof, Landmarks would execute an acknowledgment of such fact;

NOW, THEREFORE, as of the date hereof, Renaissance has completed, performed and discharged its covenants and obligations under rhetorical paragraphs 1(a) and 1(b) of the Covenants, to obtain IHPC approval of the Plans and the issuance of a Certificate of Appropriateness therefor, and to complete construction of the Residential Structure in accordance with the Plans within one year following commencement thereof, and the same are hereby released, but only with respect to Unit No. 1 in Barrington Commons Horizontal Property Regime, created under a Declaration recorded as Instrument No. 85-94537, as per plans therefor recorded as Instrument No. 86- in the office of the Recorder of Marion County, Indiana. The capitalized terms used herein shall have the same meanings as used in the Covenants.

IN WITNESS WHEREOF, Landmarks has executed this instrument as of the 10th day of April, 1986.

HISTORIC LANDMARKS FOUNDATION OF INDIANA, INC.

By: [Signature] (signature)

F. Eric Utz Director (Printed name and title)

RECEIVED FOR REC. BY: MAY 13 11 11 AM '86

STATE OF INDIANA)) SS: COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared F. Eric Utz, the Director of Historic Landmarks Foundation of Indiana, Inc., who, being duly sworn, stated that he executed the foregoing instrument upon full and proper authorization as an officer of said corporation and that the representations therein contained are true.

Witness my hand and Notarial Seal this 10th day of April, 1986.

Signature [Signature] Printed MARILYN M BRADFORD NOTARY PUBLIC

My commission expires: 5/5/87

Resident of Hendricks County.

This instrument prepared by Scott A. Lindquist, ICE MILLER DONADIO & RYAN, One American Square, Box 82001, Indianapolis, Indiana 46282.

607

AMENDMENTS TO DECLARATION OF
BARRINGTON COMMONS HORIZONTAL PROPERTY REGIME

These Amendments to the Declaration of Barrington Commons Horizontal Property Regime were made as of the 9th day of September, 1999.

WITNESSETH THAT:

WHEREAS, the Barrington Commons Horizontal Property Regime located in Marion County, Indiana was originally created and formed pursuant to the Indiana Horizontal Property Act codified at Indiana Code § 32-1-6-1 et seq., as amended, and pursuant to a certain "Declaration of Barrington Commons Horizontal Property Regime," recorded in the Office of the Recorder of Marion County, Indiana, on October 29, 1985, as **Instrument No. 85-94537** ("Declaration"); and

WHEREAS, the Declaration established sixteen (16) Dwelling Units and the Common Areas applicable thereto; and

WHEREAS, Section 24 of the Declaration enables the same to be amended by a vote of not less than a majority of the Percentage Vote; and

WHEREAS, the Co-Owners of the Barrington Commons Co-Owners Association, Inc. ("Association") desire to adopt certain amendments to the Declaration as set forth below; and

WHEREAS, after notice was duly given pursuant to the Association's By-Laws, the Annual Meeting of the Co-Owners and the Association was held on the 9th day of September, 1999, one of the stated purposes of which was to consider and adopt these Amendments to the Declaration; and

WHEREAS, at said Annual Meeting, the Owners constituting a majority of the Percentage Vote voted to approve the following Amendments.

NOW, THEREFORE, the Declaration is amended as follows:

1. Section 12(a) of the Declaration is hereby deleted in its entirety and replaced with the following:

- (a) **All Dwelling Units shall be used exclusively for residential purposes and the occupancy of a single family, all as permitted under local zoning ordinances. "Single Family" is defined as a single housekeeping unit, operating on a nonprofit, non-commercial basis between its occupants with a common kitchen and dining area.**

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Inst # 2001-0024435

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MARTHA A. WORMACKS

2. Section 12(i) of the Declaration is hereby deleted in its entirety and replaced with the following:

- (i) **No industry, business, manufacturing, mercantile, storing, trade, or any commercial activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Property; provided, however, that an Owner may maintain an office or home business in the Dwelling Unit if: (1) such office or business generates no significant number of visits or unreasonable parking usage (both as determined by the Board of Directors) by clients, customers or other persons related to the business; (2) no equipment or other items related to the business are stored, parked or otherwise kept outside such Owner's Dwelling Unit; (3) there are no employees or independent contractors within the Dwelling Unit other than the Owner or other resident; (4) such Owner has obtained approvals for such use as may be required by the appropriate local and state governmental agencies; (5) the Owner complies with all provisions of the Marion County/City of Indianapolis Dwelling District Ordinances, including the "home occupations ordinance"; and (6) all other provisions of this Declaration, the By-Laws, and the Association's rules and regulations are complied with. The Board may require the Owner to pay any increase in the rate of insurance or other costs for the Association which may result from such use.**

3. Section 12(l) of the Declaration is hereby deleted in its entirety and replaced with the following:

- (l) **No boats or other watercraft, campers, recreational vehicles, trailers of any kind, buses, mobile homes, commercial or business trucks or vans, motorcycles, mini-bikes, or any other vehicles of any description other than normal passenger trucks less than one ton, vans or automobiles, shall be permitted, parked or stored anywhere within the Property; provided, however, that nothing herein shall prevent the parking or storage of such vehicles completely enclosed within a garage and the driving or using of such vehicles solely for the purpose of ingress and egress to and from the Property provided the shortest route to and from a public road is used. No Owners or other residents shall repair or restore any vehicle of any kind within the Property, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility. "Commercial" vehicles are vehicles on which commercial lettering or equipment is visible or which are larger than normally used for noncommercial purposes. No junk or derelict vehicle or other vehicle on which current registration plates are not displayed shall be kept on the Property. Any vehicle in violation of the above shall be subject to being towed at the expense of the owner thereof.**

4. There shall be a new Section 12(p) added to the Declaration as follows:

- (p) **No Owner shall be allowed to place or cause to be placed in the lobbies, vestibules, stairways, hallways or areas of a similar nature and used for a similar purpose, both Common and Limited, any furniture, packages or objects of any kind, without the consent of the Board. Such areas shall be used for no other purpose than for normal transit through them.**

5. Section 13.A of the Declaration is hereby amended by deleting the first sentence thereof and replacing the same with the following:

The general maintenance, including vacuuming and cleaning, of the common entryways and hallways which shall be the responsibility of those Owners who use the same. Except for the foregoing, the Association will be responsible for the maintenance, repair, decoration, restoration, and replacement of the Common Areas.

All other provisions of Section 13.A shall remain unchanged and in full force and effect.

6. Section 16.B of the Declaration is hereby amended by adding the following to the end thereof:

The foregoing provisions of this Section 16.B shall in no way limit the applicability or validity of all of the provisions of Article XI of the Association's By-Laws, as amended.

All other provisions of Section 16.B shall remain unchanged and in full force and effect.

7. Section 23 of the Declaration is hereby deleted in its entirety and replaced with the following:

Section 23. Leasing Restrictions and Requirements.

(a) Limits of the Number of Leased Units. In order to insure that the residents within Barrington Commons share the same proprietary interest in and respect of the Dwelling Units and the Common Areas, no more than four (4) of the sixteen (16) Dwelling Units may be leased or rented to non-owner occupants at any given time, except as may be otherwise provided in this Section 23. If at any time such number of Dwelling Units are leased or rented, an Owner who wants to rent or lease his or her Dwelling Unit which is not already rented shall be placed upon a waiting list by the Board of Directors. When an existing tenant moves out, the Owner of that Dwelling Unit shall immediately notify the Board of Directors or Managing Agent of such fact and that Dwelling Unit cannot be re-rented until all prior Owners on the waiting list, if any, have had a chance to rent their Dwelling Units. Prior to the execution of any lease, and in addition to the requirements set

forth below, the Owner must notify the Board of Directors or the Managing Agent as to that Owner's intent to lease his or her Dwelling Unit. After receiving such notice, the Board of Directors or the Managing Agent shall advise the Owner if Dwelling Units may be leased or whether the maximum number of Dwelling Units within Barrington Commons is currently being leased. If the maximum number of Dwelling Units is being leased, the Board of Directors or the Managing Agent shall also notify the Owner of that Owner's position on the waiting list.

The restrictions of this Section 23(a) shall not apply to the three (3) Dwelling Units in Barrington Commons which are currently being leased as of the date of execution of these Amendments to the Declaration. Those three (3) Dwelling Units are:

806 N. Park Avenue,
804 N. Park Avenue, and
813 N. East Street.

The Owners of record of these three (3) Dwelling Units shall not be subject to the provisions of this Section 23(a), but shall be subject to the remaining provisions of this Section 23. When the legal owners of record of any of the above-described Dwelling Units sell, transfer or convey such Unit(s) to another Owner after the date of execution of these Amendments to the Declaration, such Dwelling Unit(s) shall immediately become subject to this Section 23(a). Since the above-described Dwelling Units are being "grandfathered" at the time of execution of these Amendments to the Declaration, that means that no other Dwelling Units in Barrington Commons may be rented or leased until one or more of those three (3) Dwelling Units is sold, transferred or conveyed, or unless allowed by the following paragraph.

Notwithstanding the foregoing provisions of this Section 23(a), if an Owner wishes to rent or lease his or her Dwelling Unit, but the maximum of four (4) Units is currently being leased, the Owner may request the Board of Directors to call for a Special Meeting of the Co-Owners. At such meeting, the affected Owner shall have an opportunity to present to the other Co-Owners any reasons why the affected Owner believes that the "rental cap" will cause undue hardship. If a Majority of the Owners, as defined in Section 3.5(e) of the By-Laws, as amended, approves of the Owner's request, the Board of Directors shall permit the Owner to rent or lease said Dwelling Unit, even though that would result in more than four (4) Units being rented at one time, but only if the Owner satisfies all other requirements of this Section 23.

(b) General Lease Conditions. All leases, including renewals, shall be in writing, and no lease shall be entered into for a term of less than one (1) year without the proper written approval of the Board of Directors. No portion of any Dwelling Unit other than the entire Unit shall be leased for any period. No

subleasing shall be permitted. All leases shall be made expressly subject and subordinate in all respects to the terms of the Declaration, By-Laws, Articles of Incorporation, and any rules and regulations promulgated by the Board of Directors, as amended, to the same extent as if the tenant were an Owner and a member of the Association; and shall provide for direct action by the Association and/or any Owner against the tenant with or without joinder of the Owner of such Dwelling Unit. If such provision is not in the lease, it will be deemed to be in such lease. The Owner shall supply copies of such legal documents to the tenants prior to the effective date of the lease. In addition, the Board of Directors shall have the power to promulgate such additional rules and regulations as, in its discretion, may be necessary or appropriate concerning leasing. All Owners who do not reside in the home shall provide the Board of Directors with the name of the tenant(s) and any other residents living in the home.

(c) Owner is Still Liable. No lease shall provide, or be interpreted or construed to provide, for a release of the Owner from his or her responsibility to the Association and the other Owners for compliance with the provisions of the Indiana Horizontal Property Act, this Declaration, the Articles of Incorporation, the By-Laws, and any rules and regulations promulgated by the Board of Directors, or from the Owner's liability to the Association for payments of assessments or any other charges.

(d) Association's Copy of Lease. A copy of each executed lease by an Owner which identifies the tenant (but which may have the rental amount deleted) shall be provided to the Board of Directors by the Owner within thirty (30) days after execution.

(e) Violations. Any lease or attempted lease of a Dwelling Unit in violation of the provisions of this Section 23 shall be voidable at the election of the Association or any other Owner, except that neither party to such lease may assert this provision to avoid its obligations thereunder.

(f) Institutional Mortgagees. The provisions set forth in this Section 23 shall not apply to any institutional mortgagee of any Dwelling Unit which comes into possession of the Dwelling Unit by reason of any remedies provided by law or in equity or in such mortgage or as a result of a foreclosure sale or other judicial sale or as a result of any proceeding, arrangement, or deed in lieu of foreclosure.

8. Acceptance and Ratification. The acceptance of a deed of conveyance or the act of occupancy of any one Dwelling Unit shall constitute a ratification of these Amendments, together with the Declaration, Articles of Incorporation, By-Laws, and all amendments thereto, and any rules or regulations adopted pursuant thereto, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Dwelling Unit or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease.

9. Certification. The undersigned persons hereby represent and certify that all requirements for and conditions precedent to the Amendments of the Declaration have been fulfilled and satisfied.

IN WITNESS WHEREOF, we, the undersigned, do hereby execute this Amended and Restated Code of By-Laws and certify the truth of the facts herein stated, this 28th day of JANUARY, ~~1999~~
2000

Barrington Commons Co-Owners Association, Inc., by:

Sandra Faulkner
Sandra Faulkner, President

ATTEST:

Carol Ross
Carol Ross, Secretary
+h CR

STATE OF INDIANA)

COUNTY OF MARION)

Before me a Notary Public in and for said County and State, personally appeared Sandra Faulkner and Carol Ross, the President and Secretary, respectively, of Barrington Commons Co-Owners Association, Inc., who acknowledged execution of the foregoing Amendments to Declaration of Barrington Commons Horizontal Property Regime for and on behalf of said corporation and who, having been duly sworn, stated that the representations contained herein are true.

Witness my hand and Notarial Seal this 28th day of January, ~~1999~~
2000

My Commission Expires: 1-13-01

Patricia A. Wilmoth
Notary Public--Signature

Residence County: Johnson

Printed PATRICIA G WILMOTH
NOTARY PUBLIC STATE OF INDIANA
JOHNSON COUNTY
MY COMMISSION EXP. JAN. 13, 2001

This instrument prepared by, and should be returned to, P. Thomas Murray, Jr., Eads & Murray, P.C., Attorneys at Law, 7321 Shadeland Station, Suite 250, Indianapolis, IN 46256. (317) 842-8550.



INSTRUMENT APPROVED BY
CENTER TOWNSHIP ASSESSOR

(17)

**AMENDED AND RESTATED CODE OF BY-LAWS OF
BARRINGTON COMMONS CO-OWNERS ASSOCIATION, INC.**

An Indiana Nonprofit Corporation

This Amended and Restated Code of By-Laws of Barrington Commons Co-Owners Association, Inc. was made as of the 9th day of September, 1999.

WITNESSETH THAT:

WHEREAS, the Barrington Commons Horizontal Property Regime located in Marion County, Indiana was originally created and formed pursuant to the Indiana Horizontal Property Act codified at Indiana Code § 32-1-6-1 et seq., as amended, and pursuant to a certain "Declaration of Barrington Commons Horizontal Property Regime," recorded in the Office of the Recorder of Marion County, Indiana, on October 29, 1985, as **Instrument No. 85-94537** ("Declaration"), to which were attached as an exhibit the Code of By-Laws of Barrington Commons Co-Owners Association, Inc. ("Original By-Laws"), said Original By-Laws being recorded on the same date and under the same Instrument No. 85-94537; and

WHEREAS, the Declaration established sixteen (16) Dwelling Units and the Common Areas applicable thereto; and

WHEREAS, Article VII of the Original By-Laws enables the By-Laws to be amended by a majority of the Percentage Vote in a duly constituted meeting called for such purpose; and

WHEREAS, the Co-Owners of the Barrington Commons Co-Owners Association, Inc. ("Association") desire to adopt certain amendments to the Code of By-Laws of the Association as set forth herein and to incorporate such amendments into an Amended and Restated Code of By-Laws of the Association; and

WHEREAS, after notice was duly given pursuant to the Original By-Laws, the Annual Meeting of the Co-Owners and the Association was held on the 9th day of September, 1999, one of the stated purposes of which was to consider and adopt this Amended and Restated Code of By-Laws of Barrington Commons Co-Owners Association, Inc.; and

WHEREAS, at said Annual Meeting, the Owners constituting a majority of the Percentage Vote voted to approve this Amended and Restated Code of By-Laws of the Association.

NOW, THEREFORE, the Original By-Laws are amended and restated as follows:

MARTHA A. WOMACKS
959068 FEB 16 2001
SUBJECT TO FINANCE
FOR TRANSFER

02/16/01 11:36AM WANDA MARTIN MARION CITY RECORDER
Inst. # 2001-0024436
JUN 42.00 PAGES: 17

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**AMENDED AND RESTATED CODE OF BY-LAWS OF
BARRINGTON COMMONS CO-OWNERS ASSOCIATION, INC.**

An Indiana Nonprofit Corporation

**ARTICLE I
NAME**

Section 1.1. Name. The name of this corporation is Barrington Commons Co-Owners Association, Inc. (hereinafter referred to as "Association").

**ARTICLE II
IDENTIFICATION & APPLICABILITY**

Section 2.1. Identification and Adoption. The provisions of these By-Laws shall apply to the Property and the administration and conduct of the affairs of the Association. These By-Laws shall also constitute the By-Laws of the Association.

Section 2.2. Individual Application. Each of the Owners within the Barrington Commons horizontal property regime located in Marion County, Indiana shall automatically and mandatorily be Members in the Association and be entitled to all of the privileges and subject to all of the obligations thereof. All Owners, by their acceptance of their respective deeds to their Dwelling Units, covenant and agree to be bound by the conditions, restrictions, and obligations contained in the "Declaration of Barrington Commons Horizontal Property Regime", said Declaration being recorded in the Marion County Recorder's Office on the 29th day of October, 1985, as Instrument No. 85-94537 together with all amendments thereto, the Articles of Incorporation, the rules and regulations of the Association and of the provisions hereof. All of the Owners, future Owners, tenants, future tenants, their guests and invitees, or any other person who might now or hereafter use or occupy a Dwelling Unit or any part of the Common Areas shall be subject to the rules, restrictions, terms, and conditions set forth in the Declaration, the Articles of Incorporation, these By-Laws, the Indiana Horizontal Property Act, and the Indiana Nonprofit Corporation Act of 1991 (the "Act"), all as the same may be amended from time to time, and to any rules and regulations adopted by the Board of Directors as herein provided. The Declaration is incorporated herein by reference. All of the covenants, rights, restrictions, and liabilities contained in the Declaration shall apply to and govern the interpretation of this Code of By-Laws. The definitions and terms, as defined and used in the Declaration, shall have the same meaning in this Code of By-Laws, and reference is specifically made to Section 1 of the Declaration containing definitions for terms, unless otherwise indicated herein.

**ARTICLE III
MEETINGS OF ASSOCIATION**

Section 3.1. Purpose of Meetings. At least annually, and at such other times as may be necessary or appropriate, a meeting of the Co-Owners shall be held for the purpose of electing the Board of Directors, approving the annual budget (if necessary), providing for the collection of Common Expenses and for such other purposes as may be required by the Declaration, these By-Laws, the Articles, or the Act.

Section 3.2. Annual Meeting. The annual meeting for the Co-Owners shall be held in the month of April of each year, with the specific date, time and place to be determined by the Board of Directors. At each annual meeting, the Co-Owners shall elect the Board of Directors of the Association in accordance with the provisions of these By-Laws and transact such other business as may properly come before the meeting.

Section 3.3. Special Meetings. A special meeting of the Co-Owners may be called by the President, by resolution of the Board of Directors or upon a written petition of the Owners of not less than ten percent (10%) of the total Percentage Vote. The resolution or petition shall be presented to the President or Secretary of the Association and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

Section 3.4. Notice and Place of Meetings. All meetings of the Members of the Association shall be held on the at any suitable place in Marion County, Indiana, as may be designated by the Board of Directors. Written notice stating the date, time, and place of any meeting, and in the case of a special meeting the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Association to each Member entitled to vote thereat not less than fourteen (14) days prior to the date of such meeting. Any written notice delivered to the Co-Owners as part of a newsletter or other publication regularly sent to the Co-Owners constitutes a written notice. If at any meeting an amendment to the Declaration, the Articles of Incorporation, or these By-Laws is to be considered, the notice of such meeting shall describe the nature of such proposed amendment. All notices shall be mailed by first-class U.S. Mail, postage prepaid, or delivered to the Co-Owners at their respective addresses as the same shall appear upon the records of the Association. If an annual or special meeting of Co-Owners is adjourned to a different date, time or place, written notice is not required to be given of the new date, time or place so long as the new date, time and place is announced at the meeting pursuant to the Act before adjournment. A copy of each such written notice shall also be delivered or mailed simultaneously by the Secretary of the Association to each Mortgagee (a) who requests in writing that such notices be delivered to it, and (b) who has furnished the Association with its name and address in accordance with Section 8.1 of these By-Laws. Such Mortgagee may designate in writing a representative to attend the meeting.

Section 3.5. Voting.

(a) Number of Votes. To avoid fractional votes and to facilitate the orderly conduct of the meeting, each Owner shall be entitled to cast one votes on each matter coming before the meeting. The total number of votes for or against any matter shall then be divided by the total number of Dwelling Units in Barrington Commons to determine the respective proportions of Owners supporting or opposing such. In voting for directors, each Owner (or his or her representative) shall be entitled to cast one votes for each directorship being filled at that meeting, and the candidate(s) receiving the highest number of votes shall fill the available directorship(s); provided that no Owner shall be allowed to accumulate his or her votes. To the extent provided in the Act, and except as otherwise provided in the Declaration, the Articles of Incorporation or these By-Laws, plurality voting shall be permitted such that at a meeting, if a quorum exists, action on a matter is approved if the votes cast in favor of the action exceed the votes opposing the action.

(b) Multiple Owners. When more than one (1) person or entity constitutes the Owner of a particular Dwelling Unit, all such persons or entities shall be Members of the

Association, but all of such persons or entities shall have only one vote applicable to the Dwelling Unit, which vote shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Dwelling Unit.

(c) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustees may cast the vote on behalf of the trust, and the agent or other representative of the corporation duly empowered by the board of directors of such corporation shall cast the vote to which the corporation is entitled. The secretary of such corporation or a trustee of such trust so entitled to vote shall deliver or cause to be delivered prior to the commencement of the meeting a certificate signed by such person to the Secretary of the Association stating who is authorized to vote on behalf of said corporation or trust.

(d) Proxy. An Owner may vote either in person or by his or her duly authorized and designated attorney-in-fact. Where voting is by proxy, the Owner shall duly designate his attorney-in-fact in writing, delivered to the Secretary of the Association prior to the commencement of the meeting. No such proxy shall remain valid for longer than eleven (11) months from the date of its execution, unless a longer term is specified in the proxy.

(e) Quorum. Except where otherwise expressly provided in the Indiana Horizontal Property Act, the Declaration, these By-Laws, or the Articles or the Act, the presence of Owners or their duly authorized representatives owning at least six (6) of the sixteen (16) Dwelling Units shall constitute a quorum at all meetings. Unless otherwise required herein or by the Act, the Owners at a meeting at which a quorum is initially present may continue to do business until adjournment, notwithstanding the withdrawal of enough Owners to leave less than a quorum. As used elsewhere in these By-Laws, the term "Majority of Owners" shall mean, unless otherwise expressly indicated, seven (7) or more of the Dwelling Units, and the term "Majority of the Vote" shall mean a majority of the votes of the Owners present or represented at such meeting at which a quorum is present.

Section 3.6. Conduct of Annual Meeting. The Chairman of the annual meeting shall be the President of the Association. The President shall call the meeting to order at the duly designated time, and business will be conducted in the following order:

(1) Reading of Minutes. The Secretary shall read the minutes of the last annual meeting and the minutes of any regular or special meeting of the Members held subsequent thereto, unless such reading is waived by a Majority of the Vote as defined in Section 3.5(e) hereof.

(2) Treasurer's Report. The Treasurer shall report to the Owners concerning the financial condition of the Association and answer relevant questions of the Owners concerning the Common Expenses and financial report for the prior year and the proposed budget for the current fiscal year.

(3) Budget. The proposed budget for the current calendar year shall be presented to the Owners for approval or amendment, if necessary, as more fully described in these By-Laws.

(4) Election of Board of Directors. Nominations for the Board of Directors may be made by an Owner from those persons eligible to serve. Such nominations must be in writing and presented to the Secretary of the Association at least ten (10) days prior to the annual meeting. If approved by a Majority of the Vote as defined in Section 3.5(e) hereof, nominations for the Board of Directors will also be accepted from the Owners attending the annual meeting. Voting for the Board of Directors will be by paper ballot. The ballot shall contain the name of each person nominated to serve as a Board member. Each Owner may cast the total number of votes to which he or she is entitled for as many nominees as are to be elected; however, no Owner shall be entitled to accumulate his or her votes. Those persons receiving the highest number of votes shall be elected.

(5) Other Business. Other business may be brought before the meeting only upon a written request submitted to the Secretary of the Association at least ten (10) days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed by a Majority of the Vote as defined in Section 3.5(e) hereof.

(6) Committee Reports. Reports of committees designated to supervise and advise on the respective segments of maintenance and operations prescribed in the Declaration or assigned by the Board of Directors shall be presented.

(7) Adjournment. Upon completion of all business before the Association, the President, upon the motion of any Owner, may adjourn the meeting; provided, however, that no annual meeting shall be adjourned until a budget is approved by the Owners for the upcoming year, if necessary.

Section 3.7. Conduct of Special Meeting. The President of the Association shall act as Chairman of any special meetings of the Association. The Chairman shall call the meeting to order at the duly designated time and the only business to be considered at such meeting shall be in consideration of the matters for which such meeting was called, as set forth in the notice of such special meeting.

Section 3.8. Written Ballots. In lieu of any annual or special meeting of the Co-Owners, written ballots may be utilized in the manner prescribed in the Act.

ARTICLE IV BOARD OF DIRECTORS

Section 4.1. Board of Directors. The affairs of the Association shall be governed and managed by the Board of Directors (herein sometimes collectively called "Board" and individually called "Directors"). The Board of Directors shall be composed of three (3) persons who each own at least one (1) Dwelling Unit.

Section 4.2. Additional Qualifications. Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a partner or an officer or trustee shall be eligible to serve on the Board of Directors, except that no single Dwelling Unit may be represented on the Board of Directors by more than one person at a time.

Section 4.3. Term of Office and Vacancy. Members of the Board of Directors shall be elected at each annual meeting of the Association. Each Director shall serve a term of three (3) years. One-third

(1/3) of the persons on the Board of Directors shall be elected at each annual meeting of the Association. Any vacancy or vacancies occurring in the Board caused by a death, resignation, or otherwise other than a vacancy created by removal or an increase in the number of Directors, shall be filled until the next annual meeting of the Members through a vote of a majority of the remaining Directors. At the first annual meeting of the Members following any such vacancy, a Director shall be elected by the Owners to serve for the balance of the term of the Director in respect to whom there has been a vacancy. Each Director shall hold office throughout the term of his or her election until his or her successor is elected and qualified.

Section 4.4. Removal of Directors. A Director or Directors elected by the Owners, or elected by the Directors to fill a vacancy, may be removed by the Owners with or without cause if the number of votes cast to remove would be sufficient to elect the Director(s) at a meeting to elect Directors. A Director or Directors may be so removed by the Owners only at a meeting called for the purpose of removing the Director(s). The meeting notice must state that the purpose of the meeting is for voting upon the removal of the Director(s). In such case, his or their successor(s) shall be elected at the same meeting from eligible Owners nominated at the meeting to serve for the remainder of the term(s) of the removed Director(s).

Section 4.5. Duties of the Board of Directors. The Board of Directors shall perform or cause to be performed, when and to the extent deemed necessary or appropriate in the Board's business judgment, the following:

- (a) Protection, repair and replacement of the Common Areas and Limited Areas, unless the same are otherwise the responsibility or duty of the Owners; provided, however, that this duty shall not include or be deemed or interpreted as a requirement that the Association, the Board or any Managing Agent must provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished;
- (b) Procuring of utilities, removal of garbage and waste if not provided by the municipality, and snow removal from the Common Areas;
- (c) Landscaping, painting, decorating, and furnishing of the Common Areas and Limited Areas, the exterior of the Buildings, garages and walls;
- (d) Surfacing, paving, and maintaining private streets, parking areas, and sidewalks, and the regulation of the use thereof;
- (e) Assessment and collection from the Owners of the Owners' pro-rata share of the Common Expenses;
- (f) Preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner prior to the end of the fiscal year;
- (g) Preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred during each year, which accounting shall be delivered to each Owner simultaneously with delivery of the notice of the annual meeting of the Owners;

- (h) Keeping a current, accurate, and detailed record of receipts and expenditures affecting the Property, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an Owner at any time during normal business hours;
- (i) Procuring and maintaining in force all insurance coverage required by the Declaration and the Indiana Horizontal Property Act, as amended;
- (j) Performing such other duties as may be reasonably inferred from the provisions of the Declaration or the Indiana Horizontal Property Act.

Section 4.6. Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonably necessary or appropriate to accomplish the performance of its duties. These powers include, but are not limited to, the power:

- (a) To employ a reputable and recognized professional managing agent or real estate management company (either being hereinafter referred to as "Managing Agent") to assist the Board in performing its duties;
- (b) To purchase for the benefit of the Co-Owners such equipment, materials, labor, and services as may be necessary in the judgment of the Board of Directors;
- (c) To procure for the benefit of the Co-Owners fire and extended coverage insurance covering the Buildings and the Property to the full insurable value thereof, to procure public liability and property damage insurance and Worker's Compensation Insurance, if necessary, and to procure all such other insurance as is required or permitted under the Declaration, the Act, or the Indiana Horizontal Property Act, all as amended, for the benefit of the Owners and the Association;
- (d) To employ legal counsel, architects, engineers, contractors, accountants, and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Association;
- (e) To employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the maintenance, upkeep, repair and replacement of the Common Areas and the Limited Areas;
- (f) To include the costs of all of the above and foregoing as Common Expenses of the Association and to pay all of such costs therefrom;
- (g) To open and maintain a bank account or accounts in the name of the Association and to designate the signatories thereto;
- (h) To adopt, revise, amend, and alter from time to time reasonable rules and regulations with respect to use, occupancy, operation, and enjoyment of the Property; provided that the Board shall give advance written notice to the Owners of such rules and any revision, amendment, or alteration thereof.

Section 4.7. Limitations on Board Action. The authority of the Board of Directors to enter into contract shall be limited to contracts involving a total expenditure of less than Five Thousand Dollars (\$5,000.00), unless the prior approval of a Majority of the Vote (as defined in Section 3.5(e) hereof) is obtained, except in the following cases:

(a) Supervision and management of the replacement or restoration of any portion of the Common Areas or Limited Areas damaged or destroyed by fire or other casualty, where the cost thereof is payable out of insurance proceeds actually received; and,

(b) Proposed contracts and proposed expenditures expressly set forth in the approved annual budget. However, specific items within the budget need not be approved separately by the Owners at the annual meeting. The Board may also reallocate funds to items in the budget so long as the total budgeted funds are not exceeded and by doing so, the total budget will not be increased; and

(c) Expenditures necessary to deal with emergency conditions in which the Board of Directors reasonably believes there is insufficient time to call a meeting of the Owners.

The said Five Thousand Dollar (\$5,000.00) maximum shall automatically be adjusted every five (5) years from the date of recording of these By-Laws to reflect changes in the purchasing power of the dollar, as determined by the most recently published annual GNP Implicit Price deflator or any comparable index.

Section 4.8. Compensation. No Director or Officer shall receive any compensation for his or her services as such except to such extent as may be expressly authorized by a Majority of Owners as defined in Section 3.5(e) hereof. The Managing Agent, if any, shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

Section 4.9. Meetings and Notice. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of Directors. No written or verbal notice need be given to Directors for regularly scheduled Board meetings of which the Directors are already aware. For all other Board meetings, the Secretary shall give notice of such meetings of the Board to each Director personally or by United States mail at least five (5) days prior to the date of such meetings. Special meetings of the Board may be called by the President or any two (2) members of the Board. The person or persons calling such meeting shall give written notice thereof to the Secretary, who shall either personally or by mail and at least three (3) days prior to the date of such special meeting, give notice to the Board members. The notice of the meeting shall contain a statement of the purpose for which the meeting is called. Such meeting shall be held at such place as shall be designated in the notice. To the extent provided in the Act, a Director may conduct or participate in a regular or special meeting of the Board of Directors through the use of conference telephone or any means of communication by which all Directors participating may simultaneously hear each other during the meeting. A Director participating in a meeting by this means is considered to be present in person at the meeting.

Section 4.10. Waiver of Notice. Before or after any meeting of the Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Director at a meeting shall, as to such Director, constitute a waiver of notice of the time, place, and purpose thereof. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 4.11. Quorum. At all meetings of the Board, unless the Act or these By-Laws provide otherwise, a majority of the Directors shall constitute a quorum for the transaction of business and the votes of the majority of the Directors present at a meeting at which a quorum is present shall be the decision of the Board.

Section 4.12. Bond. The Board of Directors may require the Managing Agent, Treasurer and such other officers as the Board deems necessary to provide surety bonds, indemnifying the Association against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. The expense of any such bond shall be a Common Expense.

Section 4.13. Informal Action by Directors. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting, if prior to such action a written consent to such action is signed by all members of the Board and such written consent is filed with the minutes of proceedings of the Board or committee.

Section 4.14. Standards of Conduct and Liability of Directors and Officers. The standard and duty of conduct for and the standard or requirements for liability of the Directors and Officers of the Association shall be as set forth in the Act, as the same may be amended from time to time.

ARTICLE V **OFFICERS**

Section 5.1. Officers of the Association. The principal officers of the Association shall be the President, Vice-President, Secretary and Treasurer, all of whom shall be elected by the Board. The Directors may appoint an Assistant Treasurer and an Assistant Secretary and such other officers as in their judgment may be necessary. Any two or more offices may be held by the same person, except that the duties of the President and Secretary shall not be performed by the same person.

Section 5.2. Election of Officers. The officers of the Association shall be elected annually by the Board at the first meeting of the Board following each election thereof. Each officer shall hold office for one (1) year or until his successor shall have been duly elected and qualified, unless earlier removed by the Board of Directors. Upon recommendation of a majority of all members of the Board or upon an affirmative vote of a Majority of Owners (as defined in Section 3.5(e) hereof), any officer may be removed either with or without cause and his or her successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 5.3. The President. The President shall be elected from among the Directors and shall be the chief executive officer of the Association. The President shall preside at all meetings of the Association and of the Board, shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of a nonprofit corporation organized under the laws of Indiana, including, but not limited to, the power to appoint committees from among the Owners as he or she may deem necessary to assist in the affairs of the Association and to perform such other duties as the Board may from time to time prescribe.

Section 5.4. The Vice-President. The Vice-President shall be elected from among the Directors and shall perform all duties incumbent upon the President during the absence or disability of the

President. The Vice-President shall also perform such other duties as these By-Laws may prescribe or as shall, from time to time, be imposed upon him or her by the Board or by the President.

Section 5.5. The Secretary. The Secretary shall be elected from among the Owners or Directors. The Secretary shall attend all meetings of the Association and of the Board and shall keep or cause to be kept a true and complete record of proceedings of such meetings, shall authenticate the Association's records, shall perform all other duties incident to the office of the Secretary, and such other duties as from time to time may be prescribed by the Board. The Secretary shall specifically see that all notices of the Association or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-Laws.

Section 5.6. The Treasurer. The Board shall elect from among the Owners or Directors a Treasurer who shall maintain a correct and complete record of account showing accurately at all times the financial condition of the Association and such other duties incident to the office of Treasurer. The Treasurer shall be legal custodian of all monies, notes, securities, and other valuables which may from time to time come into possession of the Association. He or she shall immediately deposit all funds of the Association coming into his or her hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account in the name and for the exclusive benefit of the Association. The Treasurer may permit the Managing Agent, if any, to handle and account for monies and other assets of the Association to the extent appropriate as part of its duties.

Section 5.7. Assistant Officers. The Board of Directors may from time to time designate and elect from among the Owners an Assistant Secretary and Assistant Treasurer, who shall have such powers and duties as the Officers whom they are elected to assist and shall delegate to them such other powers and duties as these By-Laws or the Board of Directors may prescribe.

ARTICLE VI

ADDITIONAL RIGHTS AND DUTIES OF BOARD

Section 6.1. Right of Entry. An Owner or occupant of a Dwelling Unit shall be deemed to have granted the right of entry to his Dwelling Unit to the Board, the Managing Agent, or any person authorized by the Board in case of any emergency, in order to remedy any circumstance threatening his or her Dwelling Unit, the building located therein, or any other property or person, whether the Owner is present at the time or not. Any Owner shall permit persons authorized by the Board to perform any work, when required, to enter his Dwelling Unit for the purpose of performing installations, alterations, or repairs to the mechanical or electrical facilities or equipment, or to make structural repairs, provided that requests for entry are made in advance and that such entry is at a time convenient to the Owner. In case of emergencies, such right or entry shall be immediate.

Section 6.2. Right of Board to Adopt Rules and Regulations. The Board may promulgate such reasonable rules and regulations regarding the operation of the Property as the Board may deem desirable, including but not limited to the use of the Common Areas, Limited Areas and Dwelling Units. Such rules as are adopted may be repealed or amended by a vote of a majority of the Board. The Board shall cause copies of all such rules and regulations, including any amendments or repeals thereof, to be delivered or mailed promptly to all Owners at least fifteen (15) days prior to the effective date thereof. Any rule or regulation promulgated by the Board shall be properly and consistently enforced by the Board.

ARTICLE VII INDEMNIFICATION

Section 7.1. Indemnification of Directors. To the extent not inconsistent with the laws of the State of Indiana, every person (and the heirs and personal representatives of such person) who is or was a director of the Association shall be indemnified by the Association as provided in the Indiana Nonprofit Corporation Act of 1991, as it now exists or as hereinafter amended.

Section 7.2. Indemnification of Officers. To the extent not inconsistent with the laws of the State of Indiana, every person (and the heirs and personal representatives of such person) who is or was an officer of the Association shall be indemnified by the Association as provided in the Indiana Nonprofit Corporation Act of 1991, as it now exists or as hereinafter amended. In addition, every person (and the heirs and personal representatives of such person) who is or was an officer of the Association shall be indemnified by the Association to the same and fullest extent that directors are indemnified by the Association as provided for in the Indiana Nonprofit Corporation Act of 1991, as it now exists or is hereinafter amended.

ARTICLE VIII NOTICES AND MORTGAGES

Section 8.1. Notice to Association. Any Owner who places a first mortgage lien upon his or her Dwelling Unit or the Mortgagee thereof may notify the Secretary of the Association and provide the name and address of the Mortgagee. A record of such Mortgagee and name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of the Declaration, these By-Laws, or the Indiana Horizontal Property Act shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgages and the name and address of the Mortgagee are furnished to the Secretary, either by Owner or by the Mortgagee, no notice to any Mortgagee as may be otherwise required by the Declaration or these By-Laws shall be required, and no Mortgagee shall be entitled to vote on any matter on which he otherwise may be entitled to vote by virtue of the Declaration or By-Laws or proxy granted to such Mortgagee in connection with the mortgage.

Section 8.2. Notice of Unpaid Assessments. Upon ten (10) days written notice to the Association and the payment of a reasonable fee, the Association shall deliver to any Owner, Mortgagee, prospective Mortgagee, title insurance company, purchaser or other prospective transferee of a Dwelling Unit, a written statement setting forth the amount of all unpaid assessments, if any, with respect to the subject Dwelling Unit, together with the amount of the current assessments for Common Expenses and the date(s) such assessments become due and payable. Any such written statement shall be binding upon the Association in favor of any person relying thereon in good faith, and any Mortgagee or grantee of the Dwelling Unit shall not be liable for nor shall the Dwelling Unit conveyed be subject to any lien for any unpaid assessments in excess of the amount set forth in such statement.

Section 8.3. Financial Statements. The Association, upon the request of any Mortgagee, shall provide to said Mortgagee the most recent financial statement prepared on behalf of the Association.

Section 8.4. Notices of Mortgagees. The Association shall promptly provide to any Mortgagee of whom the Association has been provided notice under Section 8.1 of these By-Laws of any of the following:

- (a) Any condemnation or casualty loss that affects a material portion of the Common Areas or the Dwelling Unit securing its mortgage;
- (b) Any delinquency in the payment of Regular or Special Assessments owed by the Owner of any Dwelling Unit on which said holder, insurer, or guarantor holds a mortgage, if said delinquency continues for more than sixty (60) days;
- (c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and,
- (d) Any proposed action that requires the consent of a specified percentage of Mortgagees.

Section 8.5. Availability of Information. The Association shall keep and shall make available to prospective purchasers of Dwelling Units, upon request at reasonable business hours and upon payment of a reasonable fee to defray copying expenses, copies of the Declaration, Articles of Incorporation, By-Laws, together with all amendments thereto, current rules and regulations, if any, and the most recent financial statement of the Association.

ARTICLE IX MISCELLANEOUS

Section 9.1. Fiscal Year. The fiscal year of the Association shall be the calendar year.

Section 9.2. Personal Interests. Except as permitted under Section 4.8 hereof, no Member of the Association shall have or receive any earnings from the Association; provided, however, that a Member who is an officer, director, employee, or agent of the Association may be reimbursed for expenses incurred on the Association's behalf.

Section 9.3. Contracts, Checks, Notes, Etc. All contracts and agreements entered into by the Association and all checks, drafts and bills of exchange and orders for the payment of money shall, in the conduct of the ordinary course of business of the Association, unless otherwise directed by the Board of Directors, or unless otherwise required by law, be signed by the Treasurer, and at least one other officer of the Association.

ARTICLE X AMENDMENT TO BY-LAWS

Section 10.1. Amendment. These By-Laws may be amended by a Majority of the Owners as defined in Section 3.05(3) hereof in a duly constituted meeting called for such purpose, except as prohibited by any provision of the Declaration, the Act, or these By-Laws, as the same may be amended from time to time.

ARTICLE XI ASSESSMENTS

Section 11.1. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Dwelling Unit by acceptance of a deed therefor, whether or not it shall be expressed in such deed, is

deemed to covenant and agree to pay to the Association: (1) Regular Assessments; and (2) Special Assessments, such assessments to be established and collected as hereinafter provided. The Regular and Special Assessments, together with interest, late fees, costs, reasonable attorney's fees, and any other obligation which may be charged to an Owner pursuant to these By-Laws or the Declaration, shall be a charge on the Dwelling Unit, and shall be a continuing lien upon the property against which each such assessment or charge is made. Each such assessment or charge, together with interest, late fees, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Section 11.2. Annual Accounting. Annually, within ninety (90) days after the close of the Association's fiscal year, the Board of Directors shall cause to be prepared and made available for inspection to each Owner an audited financial statement, which statement shall show all receipts and expenses received, incurred and paid during the preceding year.

Section 11.3. Proposed Annual Budget. Annually, before the end of each fiscal year, the Board of Directors shall adopt an annual budget for the next fiscal year estimating the total amount of the Common Expenses for the next fiscal year. "Common Expenses" means the actual and estimated cost to the Association for maintenance, management, operation, insurance, repair, improvement and replacement of Common Areas and Limited Areas, and any other cost or expense incurred by the Association for the benefit of the same or the Owners. Such budget may not increase by more than ten percent (10%) of the previous annual budget without the approval of a Majority of the Vote (as defined in Section 3.05(e) above) at a Special Meeting duly called for such purpose. The annual budget, as adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the ensuing fiscal year. The failure or delay of the Board of Directors to prepare a budget and furnish a copy thereof to the Co-Owners shall not constitute a waiver or release in any manner of such Owner's obligation to pay the Common Expenses as herein provided, whenever determined, and in the absence of an annual budget, the Owner shall continue to pay the then existing Regular Assessment until such new annual budget and Regular Assessment is established.

Section 11.4. Regular Assessments. Promptly following the adoption of the annual budget, the Board of Directors shall give written notice of the assessment against each respective Dwelling Unit based on its Percentage Interest (herein called the "Regular Assessment"). The Regular Assessment against each Dwelling Unit shall be assessed on a fiscal year basis commencing on January 1st and shall be due and payable in equal quarterly installments, in advance, on the first day of each month. However, an Owner may elect to pay such Regular Assessment in equal monthly installments rather than quarterly. Payment of the installments of the Regular Assessment shall be made to the Board of Directors or the Managing Agent, or otherwise, as directed by the Board of Directors. The Regular Assessment shall automatically become a lien on that Dwelling Unit on the date it is due and payable.

In addition to meeting the estimated cash requirements for the Common Expenses, the annual budget and the Regular Assessment shall be established to include the establishment and maintenance of an adequate replacement reserve fund for capital expenditures and replacement and repair of the Common Areas and Limited Areas, which replacement reserve fund shall be used only for those purposes and not for usual and ordinary repair expenses of the Property. Such reserve fund shall be maintained in a separate, federally insured, interest bearing account with a bank or savings and loan association authorized to conduct business in Marion County.

Section 11.5. Special Assessments. From time to time, Common Expenses of an unusual or extraordinary nature or otherwise not anticipated may arise. At such time and with the approval of a Majority of the Vote as defined in Section 3.05(e) hereof at a special meeting called for such purpose, the Board of Directors shall have the full right, power and authority to make and levy special assessments which, upon resolution of the Board of Directors, shall become a lien on each Dwelling Unit, prorated in accordance with the Percentage Interest of each Dwelling Unit, payable in a lump sum or installments as directed by the Board of Directors (herein called "Special Assessment").

Section 11.6. Rate of Assessments. Each Owner shall pay the Regular Assessments and Special Assessments according to the percentage interest of such Owner's Dwelling Unit as set forth in the Declaration. Since all Owners have the same percentage interest, such assessments shall be paid equally by the Owners.

Section 11.7. Failure of Owner to Pay Assessments. No Owner may exempt himself or herself from paying Regular or Special Assessments, or from contributing toward the expenses of administration and of maintenance and repair of the Common Areas and Limited Areas and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Areas or Limited Areas, or by abandonment of the Dwelling Unit belonging to such Owner. Each Owner shall be personally liable for the payment of all Regular and Special Assessments. Where the Owner constitutes more than one person, the liability of such persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular or Special Assessments when due, the lien for such assessment on the Owner's Dwelling Unit may be foreclosed by the Board for and on behalf of the Association as provided by law. Upon the failure of an Owner to make payments of any Regular or Special Assessments within ten (10) days after such are due, the Board, in its discretion, may:

- (1) impose a late charge, which will be considered an addition to the assessment, in an amount to be determined by the Board of up to twenty-five percent (25%) of the amount of the Assessment;
- (2) accelerate the entire balance of the unpaid Assessments for the remainder of the fiscal year and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary; and
- (3) suspend such Owner's right to vote as provided in the Indiana Nonprofit Corporation Act of 1991, as amended.

In any action to foreclose the lien for any Assessments, the Owner and any occupant of the Dwelling Unit shall be jointly and severally liable for the payment to the Association of reasonable rental for such Dwelling Unit, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Dwelling Unit and to collect the rentals and other profits therefrom for the benefit of the Association to be applied to the unpaid Regular or Special Assessments. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular or Special Assessments without foreclosing or waiving the lien securing the same. In any action to recover a Regular or Special Assessment, whether by foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover costs and expenses of such action incurred, including but not limited to reasonable attorney's fees, from the Owner of the respective Dwelling Unit.

Section 11.8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed upon the property

subject to assessment. Notwithstanding anything contained in this section or elsewhere in the Declaration or these By-Laws, any sale or transfer of a Dwelling Unit to a mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any Regular or Special Assessment as to such installments which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien shall not relieve the prior Owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Dwelling Unit or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu thereof, from liability for any installments of Regular or Special Assessments thereafter becoming due or from the lien therefor. Such unpaid share of any Regular Assessments or Special Assessments, the lien for which has been divested as aforesaid, shall be deemed to be a Common Expense collectible from all Owners (including the party acquiring the subject Dwelling Unit from which it arose).

IN WITNESS WHEREOF, we, the undersigned, do hereby execute this Amended and Restated Code of By-Laws and certify the truth of the facts herein stated, this 28th day of JANUARY, 1999.
2000

Barrington Commons Co-Owners Association, Inc., by:

Sandra Faulkner
Sandra Faulkner, President

ATTEST:

Carol Rose
Carol Rose, Secretary

STATE OF INDIANA)
COUNTY OF MARION)



Before me a Notary Public in and for said County and State, personally appeared Sandra Faulkner and Carol Rose, the President and Secretary, respectively, of Barrington Commons Co-Owners Association, Inc., who acknowledged execution of the foregoing Amended & Restated Code of By-Laws of Barrington Commons Co-Owners Association, Inc. for and on behalf of said corporation and who, having been duly sworn, stated that the representations contained herein are true.

Witness my hand and Notarial Seal this 28th day of January, 1999.

My Commission Expires: 1-13-01

Patricia G. Wilmoth
Notary Public--Signature

Residence County: Johnson

Printed

PATRICIA G WILMOTH
NOTARY PUBLIC STATE OF INDIANA
JOHNSON COUNTY
MY COMMISSION EXP. JAN. 13, 2001 A

This instrument prepared by, and should be returned to, P. Thomas Murray, Jr., Eads & Murray, P.C., Attorneys at Law, Shadeland Station, Suite 250, Indianapolis, IN 46256. (317) 842-8550.



INSTRUMENT APPROVED
BY
CENTER TOWNSHIP ASSessor

MARTHA A. WIMACKS
MARION COUNTY RECORDER
554626 NOV 16 2004
DULY FILED FOR RECORDATION
SUBJECT TO FINAL ACCEPTANCE
FOR TRANSFER

2

**AMENDMENTS TO DECLARATION OF BARRINGTON
COMMONS HORIZONTAL PROPERTY REGIME**

These Amendments to the Declaration of Barrington Commons Horizontal Property Regime were made the 21st day of October 2004.

WITNESSETH THAT:

WHEREAS, the Barrington Commons Horizontal Property Regime located in Marion County, Indiana was originally created and formed pursuant to the Indiana Horizontal Property Act codified at Indiana Code Sec. 32-1-6-1 et seq., as amended, and pursuant to a certain "Declaration of Barrington Commons Horizontal Property Regime," recorded in the Office of the Recorder of Marion County, Indiana on October 29, 1985, as **Instrument No. 85-94537**, which was subsequently amended by **Instrument No. 01-24435**, as recorded in the Office of the Recorder of Marion County, Indiana on February 16, 2001 (hereinafter the "Declaration"); and

WHEREAS, the Declaration established the Barrington Commons Co-Owners Association; Inc. ("Association") and sixteen (16) Dwelling Units; and

WHEREAS, Section 24 of the Declaration enables the same to be amended by a vote of not less than the majority of the Percentage Vote; and

WHEREAS, the Association desires to adopt certain amendments to the Declaration as set forth below; and

WHEREAS, the Declaration currently provides that no more than four (4) Dwelling Units may be leased or rented to non-owner occupants ("Renters") at any given time. The frequent turnover in Renters has caused damage to the common hallways as Renters move in and out of the Dwelling Units, which has increased the maintenance expenses of the Common Areas shared by all Owners. The frequent turnover in Rental Units also creates a safety concern for Owners who share a common hallway with Renters. Renters have also neglected to vacuum and clean the common entrances and hallways, as required by Section 13.A of the Declaration. Owners of rental Units have failed to maintain the Units, which has caused damage to adjoining owners from neglected maintenance such as leaking pipes, as Renters fail to remedy such defects or report them to the non-occupying owners.

WHEREAS, after notice of this Amendment was duly given by the President of the Association on the 1st day of October 2004 pursuant to Section 3.7 of the Association's By-Laws, and a Special Meeting of the Owners was held on October 19, 2004 with a quorum present and a majority of the Owners submitting written ballots in favor of this Amendment, as provided by Section 3.8 of the Association's By-Laws,

NOW THEREFORE, the Declaration is amended as follows:

1. The first sentence of Section 23(a) is amended to delete the words "four (4)" and replace with "two (2)".
2. Ratification. The acceptance of a deed of conveyance or the act of occupancy of any One Dwelling Unit shall constitute a ratification of this Amendment, together with the Declaration, Articles of Incorporation, By-Laws, and all amendments thereto, and any rules or regulations adopted pursuant thereto, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Dwelling Unit or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease.

3. Certification. The undersigned persons hereby represent and certify that the requirements for and conditions precedent to the Amendments of the Declaration have been fulfilled and satisfied.

IN WITNESS WHEREOF, we, the undersigned, do hereby execute this Amendment to the Declaration and certify the truth of the facts herein stated, this 21st day of October 2004.

Barrington Commons Co-Owners Association, Inc.

Tonya L. Sallee
Tonya L. Sallee, President

ATTEST:

Elga Parra
Elga Parra, Secretary

STATE OF INDIANA)
COUNTY OF MARION) SS:

Subscribed and sworn to before me, a Notary Public in and for said County and State, this 21st day of October, 2004.

My County of Residence:
MARION

Rebecca L. Davis
Notary Public

My Commission Expires:
JUNE 24, 2008

REBECCA L. DAVIS
Printed Name

This Instrument Prepared By: Tonya Sallee, Esquire
804 N. Park Ave.
Indianapolis, IN 46202



James P. Maloney
CENTER TOWNSHIP ASSESSOR