

UNOFFICIAL COPY



Doc#: 0733416049 Fee: \$154.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 11/30/2007 10:36 AM Pg: 1 of 66

For Use By Recorder's Office Only

**AMENDED AND RESTATED DECLARATION OF CONDOMINIUM
OWNERSHIP AND CE EASEMENTS, RESTRICTIONS, AND
COVENANTS FOR THE PRESERVE OF PALATINE
CONDOMINIUMS ASSOCIATION**

**ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP OF
PREMISES AT 435 WOOD STREET AND 455 WOOD STREET,
PALATINE, COOK COUNTY ILLINOIS 60067 PURSUANT TO THE
CONDOMINIUM PROPERTY ACT OF THE STATE OF ILLINOIS.**

After recording to be returned to:

KERRY T. BARTELL, ESQ.
Kovitz Shifrin Nesbit
750 Lake Cook Road, Suite 350
Buffalo Grove, IL 60089 – 847/537-0500

UNOFFICIAL COPY

AMENDED AND RESTATED DECLARATION OF OWNERSHIP AND OF EASEMENTS, RESTRICTIONS, AND COVENANTS FOR THE PRESERVE OF PALATINE CONDOMINIUMS ASSOCIATION

TABLE OF CONTENTS

<u>Article</u>		<u>Page</u>
I	Definitions	
II	Submission of Property to the Act and Severance Of Ownership	
	1. Submission of Ownership to the Condominium Property Act	
	2. No Severance of Ownership	
III	Units	
	1. Description and Ownership	
	2. Restriction on Ownership of Garage Spaces, Parking Spaces and Storage Spaces	
IV	Common Elements	
	1. Description	
	2. Ownership of Common Elements	
	3. Use of Common Elements	
V	Limited Common Elements	
	1. Limited Common Elements	
	2. Assignment of Limited Common Elements	
	3. Transfer or Lease of Garage Spaces, Parking Spaces and Storage Spaces	
	4. Balconies, Patios and Wood Decks	
	5. Storage Space	
	6. Parking Area	
VI	Easements	
	1. Encroachments	
	2. Utility Easements and Easement for Commercial	

UNOFFICIAL COPY

	Entertainment
3.	Easements to Run with the Land
4.	Reservation of Easements
VII	Administration and Operation
1.	Administration and Operation of the Property
2.	Indemnity
3.	Board's Determination Binding
4.	Voting Rights
VIII	Expenses, Mortgages, Taxes
1.	Common Expenses
2.	Separate Mortgages
3.	Separate Real Estate Taxes
4.	Expense of Limited Common Elements
5.	Priority of Mortgage
IX	Insurance
1.	Insurance
X	Maintenance, Alterations and Decorating
XI	Sale, Leasing or Other Alienation
XII	Availability of Records
XIII	Use and Occupancy
XIV	Remedies
1.	Violation of Declaration
2.	Delinquent Assessments
XV	Amendments
XVI	Sale of the Property
XVII	General Provisions
1.	Prior Approval by First Mortgagee
2.	First Mortgagee Requests
3.	Insurance on Condemnation Distributions
4.	Special Amendment

UNOFFICIAL COPY

5.	Waivers
6.	Notices to Unit Owners and Board
7.	Notices to Devisees
8.	Grantee's and Lessees Bound by Declaration
9.	Non-Waivers
10.	Invalidity Savings Clause
11.	Violation of Statute Savings Clause
12.	Miscellaneous Provisions
XVIII	Village of Palatine
1.	Access Rights of the Village
2.	Village right to Charge
3.	Village's Consent to Amendment
4.	Notice
5.	Severability
	Exhibit A – Legal Description
	Exhibit B – Percentage of Ownership
	Exhibit C – By-Laws

Property of Cook County Clerk's Office

UNOFFICIAL COPY

**AMENDED AND RESTATED DECLARATION OF CONDOMINIUM
OWNERSHIP AND OF EASEMENTS, RESTRICTIONS, AND COVENANTS
FOR
THE PRESERVE OF PALATINE CONDOMINIUMS ASSOCIATION**

**ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP OF PREMISES
AT 435 WOOD STREET AND 455 WOOD STREET, PALATINE,
COOK COUNTY, ILLINOIS 60067 PURSUANT TO
THE CONDOMINIUM PROPERTY ACT OF THE STATE OF ILLINOIS**

NAME: THE PRESERVE OF PALATINE
PROPERTY ADDRESS: 435 WOOD STREET AND
455 WOOD STREET, PALATINE, ILLINOIS 60067

WITNESSETH:

WHEREAS, the Association is the legal title holder of real estate in the Village of Palatine, County of Cook, State of Illinois, legally described as follows ("the Development Area") with all improvements thereon and appurtenances thereto as set forth in Exhibit "B".

WHEREAS, Association has submitted the above-described real estate together with all buildings, improvements, and other permanent fixtures of whatsoever kind thereon, and all rights and privileges belonging or in anywise pertaining thereto, to the provisions of the Act, and,

WHEREAS, Association has established for its own benefit and for the mutual benefit of all future owners or occupants of the Property or any part thereof, certain easements and rights in, over, and upon said Property and certain mutually beneficial restrictions and obligations with respect to proper use, conduct, and maintenance thereof; and,

WHEREAS, Association intends the several owners, mortgagees, occupants, and any other persons hereafter acquiring any interest in said Property shall, at all times, enjoy the benefits of and shall hold their interests subject to the rights, easements, privileges and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the co-operative aspect of such property and are established for the purpose of enhancing and perfecting the value, desirability, and attractiveness thereof.

UNOFFICIAL COPY

WHEREAS, this Amended and Restated Declaration is made this _____ day of _____, 2007 by the Board of Directors of the Association pursuant to its power under 765 ILCS 605/27(b), more commonly referred to as Section 27(b) of the Illinois Condominium Property Act which provides that the Board may correct errors and omission to the Declaration by a vote of two-thirds (2/3) of its Members.

ARTICLE I

DEFINITIONS

1. For the purpose of brevity and clarity, certain words and terms used in this Declaration are defined as follows:

(a) "Act" means the "Condominium Property Act of the State of Illinois, as amended from time to time."

(b) "Association" means The Preserve of Palatine Condominiums Association composed of all Unit Owners acting pursuant to the Bylaws attached hereto as Exhibit "C", through its duly elected Board.

(c) "Board" means the board of managers of the Association as constituted at any time and from time to time. In the event the Association is incorporated, the Board shall mean the Board of Directors of the incorporated Association.

(d) "Building" means the building or buildings located on the Parcel and forming part of the Property and containing the Units as shown by the surveys of the respective floors of said Building included in the Plat.

(e) "Bylaws" means the Bylaws of the Association, which are attached hereto and marked as Exhibit "C".

(f) "Common Elements" means all of the Property, except the Units, and shall include, but shall not be limited to, the land, foundation, hallways, stairways, entrances and exits, common parking areas, storage areas, basement, roof, incinerator, pipes, ducts, electrical wiring and conduits (except pipes, ducts, electrical wiring and conduits situated entirely within a Unit and serving only said Unit), central heating and air-conditioning system, public utility lines, floors, ceilings and perimeter walls of Units (other than such portions thereof included within Unit boundaries as shown on the Plat), structural components of the Building, outside walks and driveways, landscaping, and all other portions of the Property

UNOFFICIAL COPY

except the individual Units. Structural components located within the boundaries of a Unit shall be part of the Common Elements.

(g) "Common Expenses" means the proposed or actual expenses affecting the Property, including Reserves if any, lawfully assessed by the Board.

(h) "Condominium Instruments" means all documents and authorized amendments thereto recorded pursuant to the provisions of the Act, including the Declaration, Bylaws, and Plat.

(i) "Declaration" means this instrument by which the Property is subjected and submitted to the provisions of the Act, as hereinafter provided, and such Declaration as from time to time amended.

(j) The words "First Mortgagee" means a person, bank, savings and loan association, insurance company or other entity, which, or who, owns and holds a first mortgage, or first trust deed, with respect to any portion of the Property

(k) The words "Garage Space" means a portion of the parking area intended for the parking of a single vehicle which is contained inside the Building as shown or referenced on the Plat.

(l) "Limited Common Elements" means a portion of the Common Elements serving exclusively one or more, but less than all, of the Units including specifically, but not by way of limitation, balconies, patios, wood decks, terraces and such portions of the perimeter walls, floors and ceilings, doors, vestibules, windows and entryways, and all associated fixtures and structures therein as lie outside the Unit boundaries and those items referred to in Article V, "Limited Common Elements" of this Declaration. Each Garage Space, Parking Space, and Storage Space delineated on the Plat shall be a Limited Common Element which bears the space number or symbol as that which is assigned to the Garage Space, Parking Space, or Storage Space.

(m) "Maintenance Fund" means all monies collected or received by the Association pursuant to the provisions of the Condominium Instrument.

(n) "Majority" or "Majority of the Unit Owners" means the owners of more than 50% in the aggregate in interest of the undivided ownership of the Common Elements. Any specified percentage of the Unit Owners means such percentage in the aggregate in interest of such undivided ownership of the Common Elements.

UNOFFICIAL COPY

(o) The words "Occupant" means a person, or persons, other than an owner, in possession of one or more Units.

(p) "Original Declaration" means the Declaration first recorded with the Cook County Recorder of Deeds against the Property as Document Number _____, on _____, _____.

(q) The word "Parcel" means the parcel or tract of real estate, described above from time to time, together with all rights appurtenant thereto.

(r) The words "Parking Area" whenever used herein mean the area provided for parking vehicles as shown or referenced on the Plat.

(s) The words "Parking Space" mean a portion of the parking area intended for the parking of a single vehicle which is outside the Building and as shown or referenced on the Plat.

(t) The word "Person" means a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

(u) "Plat" means a plat or plats of survey of the Parcel and of all Units in the Property submitted to the provisions of the Act, which shall consist of a three dimensional, horizontal, and vertical delineation of all such Units and such other data as may be required by the Act, as recorded with the Original Declaration.

(v) "Property" means all the land, property, and space comprising the Parcel, and all improvements and structures erected, constructed, or contained herein or thereon, including buildings and all easements, rights, and appurtenances belonging thereto, and all fixtures, equipment, and furnishings intended for the mutual use, benefit, or enjoyment of the unit owners,

(w) "Record" means to record in the Office of the Recorder of Deeds of Cook County, Illinois.

(x) "Reserves" means those sums paid by Unit Owners which are separately maintained by the Board for purposes specified by the Board or the Condominium Instruments.

(y) "Unit" means a part of the Property designed and intended for any type of independent use as set forth on Plat attached to the Original Declaration as Exhibit C. Each Unit shall consist of the space enclosed and bounded by the horizontal and vertical planes constituting

UNOFFICIAL COPY

the boundaries of such Unit as shown on the Plat; provided, however, no structural components of a Building, and no pipes, wires, conduits, ducts, flues, shafts, or public utility lines situated within a Unit and forming part of any system serving one or more other Units or the Common Elements shall be deemed to be a part of said Unit.

(z) "Unit Owner" means the person or persons whose estates or interests, individually or collectively, aggregate fee simple absolute ownership of a Unit.

(aa) "Unit ownership" means a part of the Property consisting of one Unit and the undivided interest in the Common Elements appurtenant thereto.

ARTICLE II

SUBMISSION OF PROPERTY TO THE ACT AND SEVERANCE OF OWNERSHIP

1. Submission of Ownership to the Condominium Property Act. The Association hereby subjects and submits the Parcel and the Property to the provisions of the Act of the State of Illinois.

2. No Severance of Ownership. No Owner shall execute any deed, mortgage, lease or other instrument affecting title to a Unit Ownership without including therein both the Owner's interest in the Unit and the Unit's corresponding percentage of ownership in the Common Elements, it being the intention hereof to prevent any severance of such combined ownership. Any such, deed, mortgage, lease, or other instrument purporting to affect the one without including also the other shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described therein including but not limited to the interest in a garage space and/or a storage space.

ARTICLE III

UNITS

1. Description and Ownership. All units, garage spaces, parking spaces, and storage spaces are delineated on the Plat attached to the Original Declaration as Exhibit C and made a part of this Declaration by reference. The legal description of each Unit shall consist of the identifying number of each unit as shown on the Plat which is legally described as follows:

See Exhibit A.

UNOFFICIAL COPY

It is understood each Unit consists of the space enclosed or bounded by the horizontal and vertical planes set forth in the delineation hereof on the Plat. The legal description of each Unit shall consist of the identifying number or symbol of each Unit as shown on the Plat. Every deed, lease, mortgage, or other instrument may legally describe a Unit by its identifying number or symbol as shown on the Plat, and every such description shall be deemed good and sufficient for all purposes. An Owner or Owners may, at their own expense, subdivide or combine Units and locate or relocate Common Elements affected or required thereby in accordance with the requirements of the Act.

2. Restriction on Ownership of Garage Spaces, Parking Spaces, and Storage Spaces. No garage space, parking space, or storage space may be transferred to and owned by any Person other than the Owner of an Unit or the Board, subject to ARTICLE V, Page 6 hereof.

ARTICLE IV

COMMON ELEMENTS

1. Description. The Common Elements shall consist of all portions of the Property except the Units, and shall include but not be limited to the land, foundation, hallways, stairways, entrances and exits, common parking areas, storage areas, basement, roof, pipes, ducts, electrical wiring and conduits (except pipes, ducts, electrical wiring and conduits situated entirely within a Unit and serving only said Unit), central heating and air conditioning system, public utility lines, floors, ceilings and perimeter walls of Units (other than such portions thereof included within Unit boundaries as shown on the Plat), structural components of the Building, outside walks and driveways, landscaping, and all other portions of the Property except the individual Units. Structural components located within the boundaries of a Unit shall be part of the Common Elements.

2. Ownership of Common Elements. Each Owner shall own an undivided interest in the Common Elements as a tenant in common with all other Owners of the Property, and, except as otherwise limited in this Declaration shall have the right to use the Common Elements for all purposes incident to the use and occupancy of each Unit for housing purposes, or each Garage Space and Parking Space for vehicular parking purposes, and such other purposes permitted by this Declaration, which right shall be appurtenant to and run with each unit. The extent or amount of such ownership shall be expressed by a percentage amount and once determined shall remain constant and may not be changed without unanimous approval of all Owners except as otherwise provided by the Act.

UNOFFICIAL COPY

3. Use of Common Elements. Each Unit owner shall have the right to use the Common Elements, except the Limited Common Elements and portions of the Property subject to easements hereby or hereafter created or to leases made by or assigned to the Board, in common with all other Unit Owners, as may be required for the purposes of access, ingress to egress from, use, occupancy and enjoyment of the Unit owned by such Unit Owner, but also to his agents, servants, tenants, family members, customers, invitees and licensees. However, each Unit Owner shall have the right to the exclusive use and possession of the Limited Common Elements contiguous with or serving such unit alone or with adjoining Units. Such rights to use the Common Elements, including the Limited Common Elements, shall be subject to and governed by the provisions of the Act, the Declaration, the By-Laws and the Rules and Regulations of the Association. In addition, the Association shall have the authority to lease and grant concessions and easements with respect to parts of the Common Elements, subject to the provisions of the Act, this Declaration and the By-Laws. All income derived by the Association from leases, concessions or other sources shall be held and used for the benefit of the members of the Association, pursuant to such rules, resolutions and regulations as the Board may adopt or prescribe.

ARTICLE V

LIMITED COMMON ELEMENTS

1. Limited Common Elements. Except as otherwise provided in this Declaration, the Limited Common Elements shall consist of all portions of the Common Elements set aside and allocated for the exclusive use of a particular Unit or Units. Without limiting the generality of the foregoing, the Limited Common Elements shall include the following: any patio, wood deck, terrace or balcony which has direct access provided to it from a Unit and which is located outside of and adjoining such Unit and any such portions of the perimeter walls, floors and ceilings, doors, vestibules, windows and entryways, and of all associated fixtures and structures therein as lie outside the Unit boundaries. The garage spaces, parking spaces, and storage spaces are also limited common elements. As shown on the Plat, the garage spaces shall be designated by a symbol similar to "G-1"; the parking spaces shall be designated by a symbol similar to "P-1"; and the storage spaces shall be designated by a symbol similar to "S-1".

2. Assignment of Limited Common Elements. Any patios, terraces, wood decks, or balconies shall be assigned to the Unit which it adjoins and from which Unit allows direct access to such patio, terrace, wood decks or balcony. Garage spaces, parking spaces, and storage spaces may be assigned to the Unit Owners by the deed to the Unit. Any garage spaces, parking spaces, and

UNOFFICIAL COPY

storage areas not assigned to a Unit Owner by the deed shall belong to the Association to be used or disposed as the Board shall decide.

3. **Transfer or Lease of Garage Spaces, Parking Spaces, and Storage Spaces.** The use of garage spaces, parking spaces, and storage spaces may be transferred or leased between Unit Owners at their expense, provided the transfer or lease may be made only in accordance with the Condominium instruments and the provisions of this Declaration and with the Act. No percentage of ownership has been attributed to the garage spaces, parking spaces, and storage spaces.

4. **Balconies, Patios, and Wood Decks.** Balconies, patios, and wood decks adjoining the Units and with direct access thereto are Limited Common Elements for the benefit of each Unit and its Owner consisting of the right to use and occupy the balcony, patio, or wood deck designed for and adjoining the Unit; provided, however, no Owner shall decorate, fence, enclose, landscape, adorn or alter such balcony, patio, or wood deck in any manner contrary to such rules and regulations as may be established by the Board, as hereinafter provided, or unless the Owner shall first obtain the written consent of the Board.

5. **Storage Space.** The storage space for the Owner's personal property in the Building outside the Units shall be a Limited Common Element. Each Owner shall be responsible for such Owner's personal property in the storage space. The Board and the Association shall not be considered the bailee of such personal property and shall not be responsible for any loss or damage thereto whether or not due to the negligence of the Board and/or the Association.

6. **Parking Area.** The outdoor Parking Area shall be part of the Common Elements and be used for parking vehicles. The Parking Area shall be used and operated in such manner and subject to such rules and regulations as the Board may prescribe from time to time consistent with the terms of the Declaration. The Board and the Association shall not be considered the bailee of such personal property and shall not be responsible for any loss or damage thereto whether or not due to the negligence of the Board and/or the Association.

ARTICLE VI

Easements

1. **Encroachments.** In the event any portion of the Common Elements encroaches or shall hereafter encroach upon any portion of any Unit, or any portion of any Unit encroaches or shall hereafter encroach upon any portion of the Common Elements or any other Unit, or if by reason of the design or construction of any Unit, it shall be necessary or advantageous to an Owner to use or occupy any portion of the Common Elements for any reasonable use

UNOFFICIAL COPY

appurtenant to the Unit, which will not unreasonably interfere with the use or enjoyment of the Common Elements by other Owners, or, if by reason of the design or construction of utility and ventilation systems, any mains, pipes, ducts or conduits serving more than one Unit encroach or shall hereafter encroach upon any portion of any Unit, valid mutual easements for the maintenance of such encroachment and for such use of the Common Elements are hereby established and shall exist for the Owners of such Units or the Common Elements, as the case may be, so long as all of any part of the Building shall remain standing; provided, however, in no event shall a valid easement for any encroachment or use of the Common Elements be created in favor of any Owner if such encroachment or use is detrimental to or interferes with the reasonable use and enjoyment of the Property by the other Owners and if it occurred due to the intentional, willful, or negligent conduct of any owner or of his agent.

2. **Utility Easements and Easement for Commercial Entertainment.** The Telephone Company, Commonwealth Edison Company, Gas Company, and all other public utilities serving the Property, and any person or their successors providing cable television or other commercial entertainment to any unit Owner or to the Property are hereby granted the right to lay, construct, renew, alter, remove, operate and maintain conduits, cables, pipes, wires, transformers, switching apparatus and other equipment, into and through the Common Elements for the purpose of providing Utility services to the Property. The Board may hereafter grant additional utility easements for the benefit of the Property over, under, along, and on any portion of the Common Elements, and each Owner hereby grants to the Board an irrevocable power of attorney to execute, acknowledge, register and record for and in the name of all the Owners, such instruments as may be necessary to effectuate the foregoing.

3. **Easements to Run with the Land.** All easements and rights described herein are easements appurtenant, running with the land, and, so long as the Property is subject to the provisions of this Declaration, shall remain in full force and effect, and shall inure to the benefit of and be binding on any Unit Owner, Occupant, Purchaser, First Mortgagee, and other person having an interest in the Property, or any part thereof. Reference in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Article, or described in any other part of this Declaration, shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees, and trustees and rights to the respective grantees, mortgagees, and trustees of such Unit Ownerships as fully and completely as though such easements and rights were recited fully and set forth in their entirety in such documents.

4. **Reservation of Easements.** Reference in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Declaration, shall be sufficient to create and reserve such easements and rights to the respective grantees,

UNOFFICIAL COPY

mortgagees and trustees of such parcels as fully and completely as though such easements and rights were recited fully and set forth in their entirety in such documents.

ARTICLE VII

ADMINISTRATION AND OPERATION

1. Administration and Operation of the Property. The governing body for all of the Unit Owners for the administration and operation of the Property, as provided in the Act and in this Declaration and in the By-Laws, shall be the Board of Managers who shall be elected in the manner provided in the By-Laws. The Board of Managers when authorized by a majority of the Unit Owners shall cause to be incorporated an Illinois not-for-profit corporation as provided by the Act, and in such event, such corporation (hereinafter referred to as "Association") shall be the governing body for all of the Unit Owners for the administration and operation of the Property as provided in the Act and in this Declaration and in the By-Laws. The Board of Directors of such Association shall constitute the Board of Managers provided in the Act, and all rights, titles, powers, privileges and obligations vested in or imposed upon the Board of Managers in the Act and in this Declaration and in the By-Laws shall be held or performed by the Association or by the duly elected members of the Board of Directors thereof and their successors in office. The By-Laws for the governing body shall be the By-Laws appended hereto as Exhibit "C" and made a part hereof.

Whenever the word "Board" is used in this Declaration or in the By-Laws, it shall mean and refer to said Association acting through its Board of Directors. The Board shall be elected by the Unit Owners in accordance with the By-Laws. Neither the Board, the Association, nor the Unit Owners shall be deemed to be conducting a business of any kind. All funds collected by the Board shall be held and expended for the purposes designated in the Declaration and By-Laws and (except for such adjustments as the Board may require to reflect delinquent, prepaid, and special assessments) shall be deemed to be held for the benefit, use, and account of all the Unit Owners in the percentages set forth in Exhibit B, and shall be administered in accordance with the provisions of the Declaration and By-Laws. Each Unit Owner shall automatically have a membership in the Association, and such membership shall automatically terminate when he ceases to be a Unit Owner. Upon transfer of his ownership interest, the new Unit Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association.

2. Indemnity. The members of the Board and the officers thereof or of the Association shall not be liable to the Unit Owners for any mistake of judgment, or any acts or omissions made as such members or officers on behalf of the Unit Owners or the Association, except for any acts or omissions adjudged

UNOFFICIAL COPY

by a court to constitute gross negligence or fraud. The liability of any Unit Owner arising out of any contract made by such members or officers or out of the aforesaid indemnity shall be limited to such proportion of the total liability thereunder as his percentage interest of all the Unit Owners in the Common Elements. Each agreement made by such members or officers or by the managing agent on behalf of the Unit Owners or the Association shall be executed by such members or officers or the managing agent, as the case may be, as agents for the Unit Owners or for the Association.

3. **Board's Determination Binding.** In the event of any dispute or disagreement between any Unit Owners relating to the Property or any question of interpretation or application of the provisions of the Declaration or By-Laws, the determination thereof by the Board shall be final and binding on each and all of such Unit Owners.

4. **Voting Rights.** There shall be one person with respect to each Unit Ownership who shall be entitled to vote at any meeting of the Owners. Such person shall be known (and hereinafter referred to) as a "voting member". Such voting member may be the Owner or one of the group composed of all the Owners of a Unit Ownership, or may be some person designated to act as proxy for such Owner(s) and who need not be an Owner. Such designation shall be made in writing to the Board, shall be effective on the date of its execution, and shall be revocable at any time by actual notice to the Board of the death or judicially declared incompetence of any designator, or by written notice to the Board by the Owner(s), but in any event shall be invalid after eleven (11) months from date of execution unless otherwise provided in the proxy. Any or all of such Owners may be present at any meeting of the voting members, and they (those constituting a group acting unanimously) may vote or take any other action as a voting member in person or by proxy. At all meetings of Unit Owners at which a vote electing members of the Board of Directors is held, each Unit shall have one (1) vote. In all instances, the total number of votes of all voting members shall be 100, and each voting member shall be entitled to the number of votes equal to the percentage of ownership in the Common Elements applicable to such voting member's Unit Ownership as set forth in Exhibit "B". When 30% or fewer of the Units, by number, possess over 50% in the aggregate of the votes in the Association, any percentage vote of voting members specified in the Act or in this Declaration shall require the specified percentage by number of Units rather than by percentage of interest in the Common Elements allocated to Units which would otherwise be applicable.

UNOFFICIAL COPY

ARTICLE VIII

EXPENSES, MORTGAGES, TAXES

1. Common Expenses. Each Unit Owner shall pay his proportionate share of the expenses of administration, maintenance, and repair of the Common Elements and of any other expenses incurred in conformance with the Declaration and By-Laws or otherwise lawfully agreed (which expenses are herein sometimes referred to as "common expenses"). Such proportionate share of the common expenses for each Unit Owner shall be in the same ratio as his percentage of ownership in the Common Elements. Payment thereof shall be in such amounts and at such times as determined in the manner provided in the By-Laws. If any Unit Owner shall fail or refuse to make any such payment of the common expenses when due, the amount thereof shall constitute a lien on the interest of such Unit Owner in the Property as provided in the Act.

2. Separate Mortgages. Each Unit Owner shall have the right, subject to the provisions herein, to make a separate mortgage or encumbrance on his respective Unit together with his respective ownership interest in the Common Elements. No Unit Owner shall have the right or authority to make or create or cause to be made or created any mortgage or encumbrance or other lien on or affecting the Property or any part thereof, except only to the extent of his Unit and his respective ownership interest in the Common Elements.

3. Separate Real Estate Taxes. It is understood real estate taxes are to be separately taxed to each Unit Owner for his Unit and his corresponding percentage of ownership in the Common Elements as provided in the Act. In the event for any year such taxes are not separately taxed to each Unit Owner but are taxed on the Property as a whole, each Unit Owner shall pay his proportionate share thereof in accordance with his respective percentage of ownership interest in the Common Elements.

4. Expense of Limited Common Elements. Subject to the provisions of ARTICLE X, the expense of maintaining and repairing the Limited Common Elements shall be a Common Expense.

5. Priority of Mortgage. Any mortgage or trust deed made, owned, or held by a First Mortgagee and recorded prior to the recording or mailing of a notice by the Board of the amount owing by a Unit Owner who has refused or failed to pay his share of the monthly assessment when due shall be superior to the lien of such unpaid Common Expenses set forth in said notice and to all assessments for common expenses which become due and are unpaid subject to the date of recording of such first mortgage or first trust deed. Any First Mortgagee who comes into possession of a Unit pursuant to the remedies provided in the mortgage or trust deed, foreclosure of the mortgage or trust deed, or deed (or assignment) in lieu of foreclosure shall not be liable, and shall take

UNOFFICIAL COPY

the Unit and its proportionate interest in the Common Elements free from claims, for unpaid common or special assessments levied by the Board which accrue prior to the date of possession as aforesaid, except for a proportionate share of special assessments levied against all Units to collect an amount equal to unpaid common and special assessments levied against the Unit prior to the time the First Mortgagee takes possession thereof.

ARTICLE IX

INSURANCE

1. Insurance. The Board of Directors shall obtain the following:

(a) Property Insurance. Property insurance (i) on the common elements and the units, including the limited common elements and except as otherwise determined by the Board of Directors, the bare walls, floors, and ceilings of the unit; (ii) providing coverage for special form causes of loss, and; (iii) in a total amount of not less than the full insurable replacement cost of the insured property, less deductibles, but including coverage for the increased costs of construction due to building code requirements, at the time the insurance is purchased and at each renewal date.

(b) General Liability Insurance. Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the property in a minimum amount of \$1,000,000, or a greater amount deemed sufficient in the judgment of the Board, insuring the Board, the Association, the management agent, and their respective employees and agents and all persons acting as agents. The Unit Owners must be included as additional insured parties, but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements. The insurance must cover claims of one or more insured parties against other insured parties.

(c) Fidelity Bond; Directors and Officers Coverage.

(1) The Association must obtain and maintain a fidelity bond covering persons, including the managing agent and its employees who control or disburse funds of the Association, for the maximum amount of coverage available to protect funds in the custody or control of the Association, plus the Association reserve fund.

UNOFFICIAL COPY

(2) The Board of Directors must obtain Directors and officers liability coverage at a level deemed reasonable by the Board, if not otherwise established by the Declaration or By-Laws. Directors and officers liability coverage must extend to all contracts and other actions taken by the Board in their official capacity as Directors and Officers, but this coverage shall exclude actions for which the Directors are not entitled to indemnification under the General Not For Profit Corporation Act of 1986 or the Declaration and By-Laws of the Association.

(d) Contiguous Units; Improvements and Betterments. The insurance maintained by the Association must include the Units, the Limited Common Elements except as otherwise determined by the Board of Directors, and the Common Elements. The insurance need not cover improvements and betterments to the units installed by Unit Owners, but if improvements and betterments are covered, any increased cost may be assessed by the Association against the Units affected.

Common Elements include fixtures located within the unfinished interior surfaces of the perimeter walls, floors and ceilings of the individual Units initially installed by the developer. Common Elements exclude floor, wall and ceiling coverings. "Improvements and betterments" means all decorating, fixtures and furnishings installed or added to and located within the boundaries of the Unit, including electrical fixtures, appliances, air conditioning and heating equipment, water heaters or built-in cabinets installed by Unit Owners.

(e) Deductibles. The Board of Directors of the Association may, in the case of a claim for damage to a Unit or the Common Elements, (i) pay the deductible amount as a common expense; (ii) after notice and an opportunity for a hearing, assess the deductible amount against the Owners who caused the damage or from whose Units the damage or cause of loss originated; or (iii) require the Unit Owners of the Units affected to pay the deductible amount.

(f) Other Coverage. The Association may carry any other insurance, including workers compensation, employment practices, environmental hazards, and equipment breakdown, the Board of Directors considers appropriate to protect the Association, the Unit Owners, officers, Directors or agents of the Association.

(g) Insured Parties; Waiver of Subrogation. Insurance policies carried pursuant to subsections (a) and (b) must include each of the following provisions.

UNOFFICIAL COPY

(1) Each Unit Owner and secured party is an insured person under the policy with respect to liability arising out of the Unit Owner's interest in the Common Elements or membership in the Association.

(2) The insurer waives its right to subrogation under the policy against any Unit Owner of the condominium or members of the Unit Owner's household and against the Association and members of the Board of Directors.

(3) The Unit Owner waives his or her right to subrogation under the Association policy against the Association and the Board of Directors.

(h) Primary Insurance. If at the time of a loss under the policy there is other insurance in the name of a Unit Owner covering the same property covered by the policy, the Association's policy is primary insurance.

(i) Adjustment of Losses; Distribution of Proceeds. Any loss covered by the property policy must be adjusted by and with the Association. The insurance proceeds for that loss must be payable to the Association, or to an insurance trustee designated by the Association for that purpose. The insurance trustee or the Association must hold any insurance proceeds in trust for unit owners and secured parties as their interests may appear. The proceeds must be disbursed first for the repair or restoration of the damaged Common Elements, the bare walls, ceilings and floors of the Units, and then to any improvements and betterments the Association may insure. Unit Owners are not entitled to receive any portion of the proceeds unless there is a surplus of proceeds after the Common Elements and Units have been completed repaired or restored or the Association has been terminated as Trustee.

(j) Certificates of Insurance. Contractors and vendors (except public utilities) doing business with a condominium association under contracts exceeding \$10,000.00 per year must provide certificates of insurance naming the Association, its Board of Directors and its managing agent as additional insured parties.

(k) Settlement of Claims. Any insurer defending a liability claim against a condominium association must notify the Association of the terms of the settlement no less than ten (10) days before settling the claim. The Association may not veto the settlement unless otherwise provided by contract or statute.

UNOFFICIAL COPY

(l) A Unit Owner shall be liable for any claim, damage or judgment entered as a result of the use or operation of his Unit or caused by his own conduct. Each Unit Owner shall be responsible for obtaining his own insurance on the contents of his Unit and personal property therein, and personal property stored elsewhere on the Property. In addition, in the event a Unit Owner desires to insure against his personal liability and loss or damage by fire or other hazards above and beyond the extent that his liability, loss or damage by fire or other hazards above and beyond the extent that his liability, loss or damage is covered by the liability insurance and insurance against loss or damage by fire or other hazards obtained by the Board for all of the Unit Owners a part of the Common Expenses, such Unit Owner may, at his option and expense, obtain additional insurance thereagainst.

ARTICLE X

MAINTENANCE, ALTERATIONS AND DECORATING

1. a) Maintenance, Repairs and Replacements. Each Unit Owner shall furnish and be responsible at his own expense for all of the maintenance, repairs, and replacements within his own Unit. Maintenance, repairs, and replacements of the Common Elements shall be furnished by the Board as part of the Common Expenses subject to the rules and regulations of the Board; provided, at the discretion of the Board, maintenance, repairs, and replacements of the Limited Common Elements may be assessed in whole or in part to Unit Owners benefited thereby and further, at the discretion of the Board, it may direct such Unit Owners in the name and for the account of such Unit Owners to arrange for such maintenance, repairs and replacements, to pay the cost thereof, and to procure and deliver to the Board such lien waivers and contractor's and sub-contractor's sworn statement as may be required to protect the Property from all mechanics' or materialmen's lien claims which may arise therefrom.

b) The Board may cause to be discharged any mechanic's lien or other encumbrance which in the opinion of the Board may constitute a lien against the Property or Common Elements rather than against a particular Unit and its corresponding percentage of ownership in the Common Elements. When less than all the Unit Owners are responsible for the existence of any such lien, the Unit Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses (including attorneys' fee) incurred by reason of such lien.

c) Whenever the Board shall determine in its discretion any maintenance or repair of any Unit is necessary to protect the Common Elements or any other portion of the Building, the Board may cause a written notice of the necessity for such maintenance or repair to be served upon such Unit Owner which notice

UNOFFICIAL COPY

may be served by delivering a copy thereof to any occupant of such Unit or by mailing the same by certified or registered mail addressed to the Owner of the Unit. If such Unit Owner fails or refuses to perform any such maintenance or repair within a reasonable time stated in the notice (or any extension thereof approved by the Board), the Board may cause such maintenance and repair to be performed at the expense of such Unit Owner.

d) If due to the act or neglect of an Unit Owner or of a member of his family or household pet or of a guest or other authorized occupant or visitor of such Unit Owner damage shall be caused to the Common Elements or to an Unit or Units owned by others, or maintenance, repairs or replacements shall be required which would otherwise be at the common expense, then such Unit Owner shall pay for such damage and such maintenance, repairs, and replacements as may be determined by the Board to the extent not covered by insurance,

e) The Board shall have exclusive authority to take or refrain from taking any action pursuant to this Paragraph 1. All expenses which pursuant to this Paragraph 1 are chargeable to any Unit Owner may be specifically assessed to such Unit Owner and shall be payable by such Unit Owner as prescribed by the Board.

2. a) Alterations, Additions or Improvements. Except as originally constructed or altered on the Property, nothing shall be altered or constructed in or removed from the Common Elements except upon the written consent of the Board.

b) The Board may authorize and charge as Common Expenses (or in the case of Limited Common Elements may charge to the Unit Owner benefited thereby) alterations and improvements of, and additions to, the Common Elements; provided, however, in the event the costs thereof are to be charged as Common Expenses the Board shall not approve such capital alterations, improvements, or additions (except as may be necessary for the repair or restoration of the Common Elements) requiring an expenditure in excess of \$10,000.00 without the approval of Unit Owners owning not less than 75% in the aggregate in interest of the undivided ownership of the Common Elements. Any Unit Owner may make alterations, additions, or improvements within his Unit without the prior written approval of the Board, but in any event such Unit Owner shall be responsible for any damage to other Units, the Common Elements, or the Property as a result of such alterations, additions, or improvements. Without the prior written consent of the Board, a Unit Owner shall not (a) make any additions, alterations, or improvements (including, without limitation, installation of storm windows, storm doors, plantings, landscaping, or painting, staining, or changes to the color of exterior surfaces of the Building or any patio or deck) to any part of the Common Elements which is visible from outside the Unit, or (b) make any additions, alterations or improvements to his Unit or to the Limited

UNOFFICIAL COPY

Common Elements appurtenant thereto where such work alters the structure of the Unit or increases the cost of insurance required to be carried by the Association hereunder.

c) The Board may (but shall not be required to) condition its consent to the making of an addition, alteration or improvement by an Owner:

(i) upon the Owner's agreement that any addition, alteration or improvement will be substantially similar in quality of construction and design to any similar addition, alteration or improvement previously made with Board approval; and

(ii) upon Owner's agreement either'

(iii) to be solely responsible for the maintenance of such addition, alteration or improvement, subject to such standards as the Board may from time to time set, or

(iv) to pay to the Association from time to time the additional cost of maintenance and/or insurance as a result of the addition, alteration or improvement. If an addition, alteration or improvement is made by an Owner without the prior written consent of the Board, then the Board may, in its discretion, take any of the following actions:

A. Require the Owner to remove the addition, alteration or improvement and restore the Condominium Property to its original condition, all at the Owner's expense; or

B. If the Owner refuses or fails to properly perform the work required under (a), then, subject to the provisions herein, the Board may cause such work to be done and may charge the Owner for the cost thereof as determined by the Board. The Board may, at any time, enter a Unit to make emergency repairs, without notice. An emergency shall be defined as any hazard which appears to present an immediate danger to the structural integrity of the Common Elements or another Unit, or to the life, health, safety and property of the Unit Owner; or

C. Ratify the action taken by the Owner and the Board may (but shall not be required to) condition such ratification upon the same conditions

UNOFFICIAL COPY

which it may impose upon the giving of its prior consent under this Section.

3. Decorating. Each Unit Owner shall furnish and be responsible at his own expense for all of the decorating within his own Unit from time to time including painting, wall papering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lamps, and other furnishings and interior decorating. In the event the boundaries of any Unit as shown on the Plat are the finished undecorated interior surfaces of the perimeter walls, floors, and ceilings thereof, the owner of such Unit shall be entitled to the exclusive use of such surfaces, and such Unit Owner shall maintain such surfaces in good condition at his sole expense as may be required from time to time, which said maintenance and use shall be subject to the rules and regulations of the Board. Each such Unit Owner shall have the right to decorate such surfaces from time to time in such manner as he may see fit and at his sole expense. The use and the covering of the interior surfaces of windows whether by draperies, shades, or other items visible on the exterior of the Building shall be subject to the rules and regulations of the Board. Decorating the Common Elements (other than interior surfaces within the Units as above provided) and redecorating Units to the extent made necessary by any damage to existing decorating of such Units caused by maintenance, repair, or replacement work on the Common Elements by the Board shall be furnished by the Board as part of the common expenses.

ARTICLE XI

SALE, LEASING, OR OTHER ALIENATION

1. Sale, Leasing, or Other Alienation.

(a) Any Unit Owner who desires to sell or lease his Unit (or any lessee of any Unit wishing to assign his lease or sublease such Unit) or any interest therein to any person shall first obtain from the proposed purchaser, lessee, or assignee a bona fide offer in writing setting forth all the terms and conditions of said proposed transaction. If any Unit Owner receives such an offer which he intends to accept, he shall give written notice to the Board of such offer and such intention stating the name and address of such proposed purchaser, lessee, assignee, or sublessee, the terms of the proposed transaction, and such other information as the Board may reasonably require. Said notice shall contain an executed copy of such offer or lease or sublease. The Unit Owner or sublessor leasing a unit must deliver a copy of the signed lease or sublease to the Board within ten days (10) after the lease or sublease is executed, and prior to occupancy. The giving of such notice shall constitute a warranty and representation by the giver thereof he believes such offer and all information contained in such notice to be bona fide, true, and correct in all respects. During the period of thirty (30) days following receipt by the Board of such written notice,

UNOFFICIAL COPY

the Board shall have the first right and option to purchase or lease such unit (or to cause the same to be purchased or leased by the designee or designees, corporate or otherwise, of the Board) upon the same terms and conditions as stated in the aforesaid notice received by the Board. If the Board shall give written notice to the Unit Owner or Lessor within said thirty (30) day period of its election to purchase or lease the unit (or to cause the same to be purchased or leased by its designee, as aforesaid), such purchase or lease by the Board or its designee shall be closed upon the same terms as such proposed sale or lease.

If the Board shall give written notice to the Seller or Lessor within said thirty (30) day period it has elected not to exercise such option or if the Board shall fail to give notice within said thirty (30) day period it does not elect to purchase or lease as herein provided, the proposed sale or lease transaction as described and set forth in the notice to the Board may be contracted within sixty (60) days after the expiration of said thirty (30) day period. If the Seller or Lessor fails to contract for such sale or lease within such sixty (60) day period or if he shall so contract but such sale or lease shall not be consummated pursuant to such contract, such Unit and all rights with respect thereto shall again become subject to the Board's right of first refusal and option as herein provided.

(b) Any Unit Owner who wishes to make a gift of his Unit or any interest therein or who wishes to transfer his Unit or any interest therein for a consideration other than cash or notes (secured or unsecured) of such transferee, or the assumption of an existing indebtedness, to any person or persons who would not be heirs at law of Unit Owner under the Rules of Descent of the State of Illinois were he or she to die within sixty (60) days prior to the contemplated date of such gift or other transfer, shall give to the Board not less than sixty (60) days written notice of his or her intent to make such gift or other transfer prior to the contemplated date thereof. Said notice shall state the contemplated date of said gift or other transfer, the intended donee or transferee, and the terms in detail of such proposed other transfer and such other information as the Board shall reasonably require. The members of the Board and their successors in office shall have the first right and option to purchase (or to cause the same to be purchased by the designee or designees, corporate or otherwise, of the Board) said Unit or interest therein for cash at fair market value which shall be determined by arbitration as hereinafter provided in subparagraph (d).

(c) In the event any Unit Owner dies leaving a will devising his or her Unit, or any interest therein, to any person or persons not heirs at law of the deceased Unit Owner under the Rules of Descent of the State of Illinois, and said will is admitted to probate, the members of the Board and their successors in office shall have an option to purchase (or to cause the same to be purchased by the designee or designees, corporate or otherwise, of the Board) said Unit or interest therein from the estate of the deceased Unit Owner, or from the devisee or devisees named in such will if no power of sale is conferred by said will upon

UNOFFICIAL COPY

the personal representative named therein, for cash at fair market value which shall be determined by arbitration as hereinafter provided in subparagraph (d).

(d) Within thirty (30) days after the appointment of a personal representative for the estate of the deceased Unit Owner, or the receipt by the Board of the written notice referred in subparagraph (b) herein, as the case may be, the Board shall appoint a qualified real estate appraiser to act as an arbitrator and shall give written notice of such appointment to the Owner of the Unit to be purchased, or said devisee or devisees, or personal representative, as the case may be. Within ten (10) days thereafter, said Owner, devisee or devisees, or the personal representative, as the case may be, shall appoint a qualified real estate appraiser to act as an arbitrator. Within ten (10) days after the appointment of said arbitrators, the two so appointed shall appoint another qualified real estate appraiser to act as the third arbitrator. Within fifteen (15) days thereafter, the three arbitrators shall determine by majority vote the fair market value of the Unit or interest therein and shall thereupon give written notice of such determination to the Board and said Owner or devisee or devisees or personal representative as the case may be. The Board's right to purchase the Unit or interest therein at the price determined by the three arbitrators shall expire sixty (60) days after the date of receipt by it of such notice; provided, however, such right to purchase shall expire seven (7) months after the appointment of a personal representative of a deceased Unit Owner who is not empowered to sell. The Board shall be deemed to have exercised its option if it tenders the required sum of money said Owner or said devisee or devisees or to said personal representative, as the case may be, within said option periods.

(e) In the event any Unit or interest therein is sold at a judicial or execution sale (other than a mortgage foreclosure sale), the person acquiring title through such sale shall, before taking possession of the Unit so sold, give thirty (30) days' written notice to the Board of his intention so to do, whereupon the members of the Board and their successors in office shall have an irrevocable option to purchase such Unit or interest therein at the same price for which it was sold at said sale. If said option is not exercised by the Board within thirty (30) days after receipt of such notice, it shall thereupon expire, and said purchaser may thereafter take possession of said Unit. The Board shall be deemed to have exercised its option if it tenders the required sum of money to the purchaser within said thirty (30) day period.

(f) In the event any Unit Owner shall default in the payment of any monies required to be paid under the provisions of any mortgage or trust deed against his Unit, the Board shall have the right to cure such default by paying the amount so owing to the party entitled thereto and shall thereupon have a lien therefore against such Unit Ownership which lien may be perfected and foreclosed in the manner provided in the Act with respect to liens for failure to pay a share of the common expenses.

UNOFFICIAL COPY

(g) If a proposed lease or sublease of any Unit is made after compliance with the foregoing provisions, a copy of the lease or sublease as and when executed shall be furnished by such lessor or sublessor to the Board. The lessee or sublessee thereunder shall be bound by and be subject to all of the obligations of the owner with respect to such Unit as provided in this Declaration and the lease or Sublease shall expressly so provide. The person making any such lease or sublease shall not be relieved thereby from any of his obligations hereunder. Upon expiration or termination of such lease, or in the event of any attempt to sublease thereunder, the provisions hereof with respect to the Board's right of first option shall apply to such Unit.

(n) The Association shall not exercise any option hereinabove set forth to purchase any Unit without the prior written consent of 2/3 of the Unit Owners. The members of the Board or their duly authorized representatives may bid to purchase at any auction or sale of the Unit or interest therein of any Unit Owner, deceased or living, which said sale is held pursuant to any order or direction of a court upon the prior written consent of 2/3 of the Unit Owners, which said consent shall set forth a maximum price which the Board is authorized to bid and pay for said Unit or interest therein.

(i) Where title to any Unit is held by a trust, the bequest, assignment, sale, conveyance, or other transfer by a beneficiary of such trust of his or her beneficial interest in such trust (other than as security for a bona fide indebtedness) shall be deemed an assignment, sale, conveyance, devise, or other transfer of the Unit Owner by such trust.

(j) Where title to any Unit is held by a corporation or a partnership, the transfer or bequest of fifty percent (50%) or more of the issued and outstanding shares of such corporation or fifty percent (50%) or more of the interest in such partnership shall be deemed a transfer or devise of the Unit owned by such corporation or partnership.

(k) The terms of this Article XI and the rights of first refusal herein provided shall not be applicable to:

(i) the transfer or conveyance by operation of law or otherwise of the interest of a co-owner of any Unit to any other co-owner of the same Unit where such co-owners hold title to such Unit as tenants in common, tenants by the entirety, or as joint tenants;

(ii) the transfer by sale, lease, gift, devise, or otherwise of any Unit of interest therein to or for the sole benefit of any spouse, descendant, ancestor or sibling (or the spouse of any such person) of the transferor,

UNOFFICIAL COPY

(iii) the execution of a bona fide trust deed, mortgage, or other security instruments;

(iv) the sale, conveyance, or leasing of a Unit by a First Mortgagee who is in possession of a Unit pursuant to the remedies provided in the mortgage or trust deed, by foreclosure of the mortgage or trust deed, or by deed (or assignment) in lieu of foreclosure or otherwise;

(l) Acquisition or leasing of Units or interests therein under the provisions of this Article shall be made from the maintenance fund. If said fund is insufficient, the Board shall levy a special assessment against each Owner in the ratio his percentage of ownership in the common elements bears to the total of all such percentages applicable to Units subject to said special assessment, which assessment shall become a lien and may be perfected and foreclosed in the manner provided in the Act with respect to liens for failure to pay a share of the common expenses. The Board, in its discretion, may borrow to finance the acquisition of an Unit or interest therein which said acquisition is authorized by this paragraph; provided, however, no financing may be secured by an encumbrance or hypothecation of any portion of the Property other than the Unit or interest therein to be acquired.

(m) Units or interests therein acquired pursuant to the terms of this Article shall be held of record in the names of the members of the Board and their successors in office or such nominee or entity as the Board shall designate, for the use and benefit of all the Unit Owners. Said Units or interests therein shall be sold or leased by the Board for the benefit of the Unit Owners upon such price and terms as the Board shall determine. All proceeds of such sale and/or leasing shall be deposited in the maintenance fund and may thereafter be disbursed at such time and in such manner as the Board shall determine.

(n) Upon the written consent of all the members of the Board, any of the rights or options contained in this Article XI may be released or waived, and the Unit or interest therein which is subject to right of first refusal set forth in this paragraph may be sold, conveyed, leased, given, or devised free and clear of the provisions of this paragraph.

(o) Upon the written request of any prospective transferor, purchaser, tenant or mortgagee of a unit, the Board by its Secretary or duly appointed agent shall issue a written and acknowledged certificate evidencing:

(i) with respect to a proposed sale or lease hereunder, the provisions of this Article XI have been complied or duly waived by the Board and the rights of first refusal of the Board have been terminated, if such is the fact;

UNOFFICIAL COPY

(ii) Any conveyance, deed, or lease is by the terms hereof not subject to the provisions of this Article XI, if such is the fact: and such certificate shall be conclusive evidence of the facts contained therein.

(p) Records. In the event of any resale of a Unit by a Unit Owner, such Owner shall obtain from the Board of Directors and shall make available for inspection to the prospective purchaser, upon demand, the following:

(i) A copy of the Declaration, By-Laws, other Condominium instruments and any rules and regulations.

(ii) A statement of any liens, including a statement of the account of the Unit setting forth the amounts of unpaid assessments and other charges due and owing as authorized and limited by the provisions of Section 9 of the Act or the Condominium instruments.

(iii) A statement of any capital expenditures anticipated by the Association within the current or succeeding two fiscal years.

(iv) A statement of the status and amount of any reserve for replacement fund and any portion of such fund earmarked for any specified project by the Board of Directors.

(v) A copy of the statement of financial condition of the Association for the last fiscal year for which such statement is available.

(vi) A statement of the status of any pending suits or judgments in which the Association is a party.

(vii) A statement setting forth what insurance coverage is provided for all Unit Owner by the Association.

(viii) The identity and mailing address of the principal officer of the Association or of the other officer or agent as is specifically designated to receive notices.

Such request shall be made by the seller, within the prescribed period. The Association may charge a reasonable fee for copies of all such documents requested.

UNOFFICIAL COPY

ARTICLE XII

AVAILABILITY OF RECORDS

1. In addition to the provisions contained herein, the Board shall maintain the following records of the Association available for examination at convenient hours of weekdays by the Unit Owners or their First Mortgagees and their duly authorized agents or attorneys:

(a) the Association's declaration, By-Laws, and plats of survey, and all amendments of these;

(b) the rules and regulations of the association, if any;

(c) if the Association is incorporated as a corporation, the articles of incorporation of the Association and all amendments to the articles of incorporation;

(d) minutes of all meetings of the Association and its Board of Directors for the immediately preceding seven (7) years;

(e) all current policies of insurance of the association;

(f) all contracts, leases, and other agreements then in effect to which the Association is a party or under which the Association or the Unit Owners have obligations or liabilities;

(g) a current listing of the names, addresses, and weighted vote of all Owners entitled to vote;

(h) ballots and proxies related to ballots for all matters voted on by the Unit Owners of the Association during the immediately preceding twelve (12) months, including but not limited to the election of members of the Board of Directors; and

(i) the books and records of account for the Association's current and ten (10) immediately preceding fiscal years, including but not limited to itemized and detailed records of all receipts and expenditures.

2. Any Unit Owner shall have the right to inspect, examine, and request copies for a reasonable fee, the records described in subparagraphs (a) – (e) of subsection 1 of this Section, in person or by agent, at any reasonable time or times, at the Association's principal office. In order to exercise this right, the Unit Owner must submit a written request to the Board, or its authorized agent, stating with particularity the records sought to be examined. Upon paying a reasonable fee, failure of the Board to make available all records so requested

UNOFFICIAL COPY

within 30 days of receipt of the Unit Owner's written request shall be deemed a denial.

Any Unit Owner who prevails in an enforcement action to compel examination of records described in subparagraphs (a) – (e) of subsection 1 of this Section shall be entitled to recover reasonable attorney's fees and costs from the Association.

3. Except as otherwise provided in subsection 5 of this Section, any Unit Owner of the Association shall have the right to inspect, examine, and make copies of the records described in subparagraphs (f) – (i) of subsection 1 of this Section, in person or by agent, at any reasonable time or times but only for a proper purpose, at the Association's principal office and at a reasonable fee. In order to exercise this right, the Unit Owner must submit a written request, to the Board or its authorized agent, stating with particularity the records sought to be examined and a proper purpose for the request. Subject to the provisions of subsection 5 of this Section, failure of the Board to make available all records so requested within thirty (30) business days of receipt of the Unit Owner's written request shall be deemed a denial; provided, however, that if the Association has adopted a secret ballot election process as provided in Section 18 of the Act shall not be deemed to have denied a Unit Owner's request for records described in subparagraph (h) of subsection 1 of this Section if voting ballots, without identifying unit numbers, are made available to the requesting Unit Owner within thirty (30) days of receipt of the Unit Owner's written request. In an action to compel examination of records described in subparagraphs (f) – (i) of subsection 1 of this Section, the burden of proof is upon the Unit Owner to establish that the Unit Owner's request is based on a proper purpose. Any Unit Owner who prevails in an enforcement action to compel examination of records described in subparagraphs (f) – (i) of subsection 1 of this Section shall be entitled to recover reasonable attorney's fees and costs from the Association only if the court finds that the Board acted in bad faith in denying the Unit Owner's request.

4. The actual cost to the Association of retrieving and making requested records available for inspection and examination under this Section shall be charged by the Association to the requesting Unit Owner. If a Unit Owner requests copies of records requested under this Section, the actual costs to the Association of reproducing the records shall also be charged by the Association to the requesting Unit Owner.

5. Notwithstanding the provisions of subsection 3 of this Section, unless otherwise directed by court order, the Association need not make the following records available for inspection, examination, or copying by its Unit Owners:

(a) documents relating to appointment, employment, discipline, or dismissal of Association employees;

UNOFFICIAL COPY

(b) documents relating to actions pending against or on behalf of the Association or its Board of Directors in a court or administrative tribunal;

(c) documents relating to actions threatened against, or likely to be asserted on behalf of, the Association or its Board of Directors in a court or administrative tribunal;

(d) documents relating to common expenses or other charges owed by a Unit Owner other than the requesting Unit Owner; and

(e) documents provided to the Association in connection with the lease, sale, or other transfer of a unit by a Unit Owner other than the requesting Unit Owner.

6. Upon ten (10) days' notice to the Board and payment of a reasonable fee, any Unit Owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such Unit Owner.

ARTICLE XIII

USE AND OCCUPANCY

1. Use and, Occupancy of Units and Common Elements. The Units and Common Elements shall be occupied and used as follows:

(a) No part of the Property shall be used other than for housing and the stated common purposes for which the Property was designed. Each Unit or any two or more adjoining Units used together shall be used as a residence for a single family or such other uses permitted by this Declaration and for no other purposes. That part of the Common Elements separating any two or more adjoining Units used together may be altered to afford ingress and egress to and from such adjoining Units in such manner and upon such conditions as shall reasonably be determined by the Board.

(b) No industry, business, trade, occupation, or profession of any kind, commercial, religious, educational, or otherwise, designed for profit, altruism, exploration, or otherwise, shall be conducted, maintained, or permitted on any part of the property. No "For Sale" or "For Rent" signs, advertising, or other displays shall be maintained or permitted on any part of the Property except at such location and in such form as shall be determined by the Board. The foregoing restriction as to residence shall not, however, be construed in such manner as to prohibit a Unit Owner from: (i) maintaining his personal professional

UNOFFICIAL COPY

library; (ii) keeping his personal business or professional records or accounts; (iii) handling his personal business or professional telephone calls or correspondence. Such uses are expressly declared to be customarily incident to the principal residential use and not in violation of such restriction.

(c) There shall be no obstruction of the Common Elements nor shall anything be stored in the Common Elements without the prior consent of the Board except as herein expressly provided. Each Unit Owner shall be obligated to maintain and keep his own Unit and its interior surfaces, windows, and doors in good, clean order and repair, and each Unit Owner shall also keep the patio or balcony which he has the exclusive right to use and occupy free and clear of snow, ice, and accumulation of water. Such Unit Owner shall also make all repairs to such balcony or patio caused or permitted by his negligence, misuse, or neglect, but all other repairs thereto shall be made by the Board at the common expense. The Board may, but need not, decorate or paint said patios or balconies, or any of them, at the common expense. The use of and the covering of the interior surfaces of windows whether by draperies, shades, or other items visible on the exterior of the building shall be subject to the rules and regulations of the Board.

(d) Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance on the Building or contents thereof applicable for residential use without the prior written consent of the Board. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Elements which will result in the cancellation of insurance on the Building or contents thereof or which would be in violation of any law. No waste shall be committed in the Common Elements.

(e) Unit Owners shall not cause or permit anything to be hung or displayed on the outside of windows or placed on the outside walls of the Building, and no sign, awning, canopy, shutter, radio or television antenna shall be affixed to or placed upon the exterior walls or roof or any part thereof without the prior consent of the Board.

(f) No animals, reptiles, rabbits, livestock, fowl, or poultry of any kind shall be raised, bred, or kept in any Unit or in the Common Elements, except dogs, cats, or other household pets may be kept in Units subject to the rules and regulations adopted by the Board, provided they are not kept, bred, or maintained for any commercial purpose, and provided further any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the property upon three (3) days' written notice from the Board.

(g) No noxious or offensive activity shall be conducted in any Unit or in the Common Elements nor shall anything be done therein, either willfully or

UNOFFICIAL COPY

negligently, which may be or become an annoyance or nuisance to the other Unit Owners or Occupants.

(h) Nothing shall be done in any Unit or in, on, or to the Common Elements which will impair the structural integrity of the Building or which would structurally change the Building except as otherwise provided herein.

(i) No clothes, sheets, blankets, laundry of any kind or other articles shall be hung or exposed on any part of the Common Elements. The Common Elements shall be kept free and clear of rubbish, debris, and other unsightly materials.

(j) There shall be no playing, lounging, parking of baby carriages or playpens, bicycles, wagons, toys, vehicles, benches, chairs, or other personal property on any part of the Common Elements without the prior consent of, and subject to any regulations of, the Board.

(k) Each Unit Owner and the Board hereby waives and releases any and all claims which he or it may have against any other Unit Owner, the officers and members of the Board, and their respective employees and agents, for damage to the Common Elements, the Units, or to any Personal Property located in the Units or Common Elements, caused by fire or other casualty or any act or neglect mentioned in Paragraph (l) below, to the extent such damage is covered by fire or other form of hazard insurance.

(l) If due to the act or neglect of a Unit Owner, or if a member of his family household pet, or guest or other authorized occupant or visitor of such Unit Owner damage shall be caused to the Common Elements or to an Unit or Units owned by others, or maintenance, repairs, or replacements shall be required which would otherwise be at the common expense, such Unit Owner shall pay for such damage and such maintenance, repairs and replacements as may be determined by the Board to the extent such payment is not waived or released under the provisions of Paragraph (k) above.

(m) Any release or waiver referenced to in Paragraph (k) and (l) hereof shall be valid only if such release or waiver does not affect the right of the insured under the applicable insurance policy to recover thereunder.

(n) No Unit Owner shall overload the electric wiring in any building or operate any machines, appliances, accessories, or equipment in such manner as to cause, in the judgment of the Board, an unreasonable disturbance to others, or connect any machines, appliances, accessories, or equipment to the heating system or plumbing system without the prior consent of the Board.

(o) Nothing in this Article XIII shall be construed to prevent or prohibit an Unit Owner from maintaining his professional personal library, keeping his

UNOFFICIAL COPY

personal business or professional records or accounts, handling his personal business, or professional telephone calls in his Unit.

(p) Any Unit Owner shall have the right to lease all (and not less than all of his Unit), subject to the provisions of subsections (i) and (ii) below:

(i) No Unit shall be leased for less than one (1) year or for hotel or transient purposes.

(ii) Any lease shall be in writing and shall provide such lease shall be subject to the terms of this Declaration and any failure of the lessee to comply with the terms of this Declaration shall be a default under the lease. A lessee shall be bound by the provisions hereof regardless of whether the lease specifically refers to this Declaration.

(q) Balconies shall be kept clean, orderly, and free from clutter. Only patio furnishings shall be permitted on the balconies. Bicycles, scooters, or similar items shall not be stored on balconies. Clothing, sheets, blankets, laundry, and similar items shall not be hung, exposed, or stored on balconies. The use and storage of charcoal grills shall be prohibited.

(r) No mast, satellite dish, antennae or other structure for transmitting or receiving messages or programs by radio or television shall be erected, permitted or maintained in or upon any part of the Condominium Property without the prior written approval of the Board, subject to any federal, state or local restrictions on the Board's authority. The Association may contract for cable or satellite TV as provided for herein.

(s) Until determined by federal or state legislation, administrative agency or court of law, the Common Elements shall not be subject to the public facility regulations of the Americans With Disabilities Act. In order to conform to the Fair Housing Amendments Act of 1988, any Unit Owner or Resident may make reasonable modification to his Unit or its limited Common Elements, subject to the following:

(a) All requests for modification to a Unit, Common Elements or Limited Common Elements must be in writing.

(b) The Board may request copies of plans, specifications, drawings, certifications and other reasonable documentation for its review.

UNOFFICIAL COPY

(c) The Board may establish reasonable guidelines for construction of any addition, improvement or modification.

(d) All work must be approved by the Board prior to commencing construction.

(e) The Board may require the Owner or Resident to return the modification(s) to its original condition at Owner's expense upon sale or transfer of Unit Ownership.

(f) The Board of Directors shall have the authority to establish a fee for administration and documentation associated with Residents moving in and out of the premises, including a security deposit for damages to the Common Elements.

(t) Flags. (i) An American Flag shall be defined as a flag made of fabric, cloth, or paper displayed from a staff or flagpole or in a window. An American Flag shall not include a depiction or emblem of the American flag made of lights, paint, or roofing, siding, or paving material, flora or balloons, or any other similar building, landscaping, or decorative component.

(ii) A Military Flag shall be defined as a flag of any branch of the United States Armed Forces or the Illinois National Guard made of fabric, cloth, or paper displayed from a staff or flagpole or in a window. A Military Flag shall not include a depiction or emblem of a military flag made of lights, paint, or roofing, siding, or paving material, flora or balloons, or any other similar building, landscaping, or decorative component.

(iii) In the interests of the health, safety, and welfare of the Association, the Board has adopted the following Rules and Regulations governing the display of American and Military Flags:

A. The following are the approved guidelines to be followed when displaying American or Military Flags: The flag must be rectangular in shape not to exceed 3 feet by 5 feet in size suspended on a pole (maximum length 65 inches) mounted by a bracket which is affixed to the trim Board or brickwork no more than 75 inches above the ground or porch floor. The bracket must be capable of supporting the pole and flag at a 20 to 45 degree angle from vertical without damaging the buildings exterior.

B. The display of the American Flag shall be subject to the provisions of Title 4 of the United States Code, Chapter 1 (The Flag), Sections 4 through 10, including but not limited to the following:

UNOFFICIAL COPY

(1) It is the universal custom to display the flag only from sunrise to sunset on buildings and on stationary flagstaffs in the open. However, when patriotic effect is desired, the flag may be displayed 24 hours a day if properly illuminated during the hours of darkness.

(2) The flag should be hoisted briskly and lowered ceremoniously.

(3) The flag should not be displayed on days when the weather is inclement, except when an all weather flag is displayed.

(4) When the flag of the United States is displayed from a staff projecting horizontally or at an angle from the window sill, balcony, or front of a building, the union of the flag should be placed at the peak of the staff unless the flag is at the half-staff. When the flag is suspended over a sidewalk from a rope extending from a house to a pole at the edge of the sidewalk, the flag should be hoisted out, union first, from the building.

(5) When displayed either horizontally or vertically against a wall, the union should be uppermost and to the flag's own right, that is, to the observer's left. When displayed in a window, the flag should be displayed in the same way, with the union or blue field to the left of the observer in the street.

C. A flag pole or mount may not be installed on a portion of the Common Elements. A flag pole or mount may be installed on that portion of the property considered a limited common element that is under the exclusive use and control of an Owner, specifically the balcony, patio, or exterior surface of an Owner's Unit.

D. In order to protect the health, safety and welfare of the residents and their property the Board reserves the right to inspect the installation and maintenance of the flag pole.

E. Once installed, the owner will be responsible for the maintenance of the flag pole. If additional cost is required to maintain the portion of property on which the flag pole is installed, the Board may assess this cost back to the unit owner. If it is necessary for the Association to remove the flag pole to perform maintenance, the owner will be advised accordingly.

UNOFFICIAL COPY

F. The owner shall be responsible to fund the entire cost of any maintenance, repair or replacement to the property resulting from installation of the flag pole. In addition, the owner must restore the property to its original condition upon removal of the flag pole. Owner does hereby indemnify and hold harmless the Board of Directors of the Association, its agents and members, from any claims for maintenance or damages to the flag or flag pole. Owner shall display any flag at their own risk.

ARTICLE XIV

REMEDIES

1. Violation of Declaration. The violation of any rule or regulation adopted by the Association or the breach of any covenant or provision herein or contained in the Bylaws in addition to any other right provided in this Declaration or the Bylaws shall give the Association the right (a) to enter upon the Unit, or any portion of the Property upon which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and neither the Association nor the officers, employees, or agents thereof shall thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach; or (c) to take possession of such Unit Owner's interest in the Property and to maintain an action for possession of such Unit in the manner provided by law.

Provided, however, except in cases of emergency where damage to persons or property is threatened, the Association shall not take any such action unless it has (a) first given the Unit Owner alleged to have violated any restriction, condition, or regulation adopted by the Association or to be in breach of any covenant or provision herein or contained in the Bylaws, a hearing on such allegations pursuant to rules and regulations adopted by the Association, (b) the Association shall have determined such allegations to be true, and (c) the Unit Owner shall not have desisted from such violation or breach or shall not have taken such steps as shall be necessary to correct such violation or breach within such reasonable period of time as determined by the Association and communicated to the Unit Owner. Any and all costs and expenses incurred by the Association in the exercise of its authority as granted in this paragraph, including but not limited to court costs, reasonable attorneys' fees as determined by a court of competent jurisdiction, and cost of labor and materials shall be paid by the Unit Owner in violation, and, until paid by such Unit Owner, shall constitute a lien on the interest of such Unit Owner in the Property, which lien may be perfected and foreclosed in the manner provided in the Act with respect to liens

UNOFFICIAL COPY

for failure to pay a share of the Common Expenses. Any such lien shall be junior and subordinate to the lien of a First Mortgagee with respect to such Unit.

Furthermore, if after hearing and finding as aforesaid and failure of the Unit Owner to desist from such violation or to take such corrective action as may be required, the Association shall have the power to issue to, the defaulting Unit Owner a 10-day notice in writing to terminate the rights of the said defaulting Unit Owner to continue as an Unit Owner and to continue to occupy, use, or control his Unit, and thereupon an action in equity may be filed by the Association against the defaulting Unit Owner for a decree declaring the termination of the defaulting Unit Owner's right to occupy, use, or control the Unit owned by him on account of the violation of a rule or breach of covenant or provision as aforesaid and ordering all the right, title, and interest of the Unit Owner in the Property shall be sold (subject to a judicial sale) upon such notice and terms as the court shall establish, except the court shall enjoin and restrain the defaulting Unit Owner from reacquiring his interest at such judicial sale or by virtue of the exercise of any right of redemption which may be established, and except the court shall direct any existing first mortgage be retired out of the proceeds of such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, reasonable attorneys' fees, and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting Unit Owner in said decree. Any balance of proceeds after satisfaction of such charges and any unpaid assessments hereunder or any liens shall be paid to the Unit Owner. Upon the confirmation of such sale, the Purchaser shall thereupon be entitled to a deed to the Unit and, subject to the first right and option of the Association as provided in Article XI, paragraph 1(e) hereof, to immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree shall so provide, the Purchaser shall take the interest in the Property sold subject to this Declaration.

Any Unit Owner in default hereunder or under the provisions of the Bylaws or any rule or regulation adopted by the Association shall pay to the Association, as an agreed Common Expense with respect to his Unit, all attorneys' fees incurred by the Association in enforcing the provisions of the Bylaws, this Declaration, or the rules and regulations of the Association as to which the Unit Owner is in default. Until such fees are paid by the Unit Owner, the amount thereof shall constitute a lien on the interest of the Unit Owner in the Property, which lien may be perfected and foreclosed in the manner provided by Illinois statute with respect to liens for failure to pay a share of the Common Expenses. Any such lien shall be junior and subordinate to the lien of a First Mortgagee with respect to such Unit.

2. Delinquent Assessments. If an Unit Owner is in default in the monthly payment of the charges or assessments for thirty (30) days, the Board may assess a service charge of one and one-half percent (1 ½%) of the balance

UNOFFICIAL COPY

of the aforesaid charges and assessments in default for thirty (30) days for each month, or part thereof, said balance, or any part thereof, remains unpaid. In addition to any remedies or liens provided by law, if an Unit Owner is in default in the monthly payment of the aforesaid charges or assessments for sixty (60) days, all other monthly payments of charges and assessments due for the calendar year in which such default occurs shall accelerate and become immediately due and payable. The Board may bring suit for and on behalf of itself and as representative of all Unit Owners to enforce collection of unpaid charges or assessments or to foreclose the lien provided herein as provided by law; and there shall be added to the amount due the costs of said suit together with legal interest and reasonable attorneys' fees and costs to be fixed by the Court. In addition, the Board may also take possession of such defaulting Unit Owner's interest in the Property and maintain an action for possession in the manner provided by law. No Owner may waive or otherwise escape liability for the assessments provided herein by non-use of the Common Elements or abandonment of his or her Unit.

ARTICLE XV

AMENDMENTS

1. Amendments. The provisions of this Declaration may be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescission, signed by Unit Owners having at least three-fourths (3/4) of the total vote, and certified by the Secretary of the Board; provided, however, all lien holders of record have been notified by certified mail of such change, modification, or rescission and an affidavit by said secretary certifying to such mailing is a part of such instrument.

2. The change, modification, or rescission whether or not accomplished under either of the provisions of the preceding two paragraphs shall be effective upon recordation of such instrument in the office of the Recorder of Deeds of the County wherein the Property is situated; however, no provisions in this Declaration may be changed, modified, or rescinded so as to conflict with the provisions of the Act.

ARTICLE XVI

SALE OF THE PROPERTY

1. The Owners by affirmative vote of the voting members having three-fourths (3/4) or more of the total votes at a meeting duly called for such purpose may elect to sell the Property as a whole. Within ten (10) days after the date of the meeting at which such sale is approved, the Board shall give written

UNOFFICIAL COPY

notice of such action to the holder of any duly recorded mortgage or trust deed against any Unit Ownership entitled to notice under Article XI hereof. Such action shall be binding upon all Owners, and it shall thereupon become the duty of every Owner to execute and deliver such instruments and to perform all acts as in manner and form may be necessary to effect such sale; provided, however, any Owner who did not vote in favor of such action and who files written objection thereto with the Board within twenty (20) days after the date of the meeting at which such sale is approved shall be entitled to receive from the proceeds of such Sale an amount equivalent to the value of such Owner's interest as determined by a fair appraisal less the amount of any unpaid assessments or charges due and owing from such Owner. In the absence of agreement on an appraiser, such Owner and the board may each select an appraiser and the two (2) so selected shall select a third. The fair market value shall be determined by a majority of the three appraisers so selected. If either party shall fail to select an appraiser, then the one designated by the other party shall make the appraisal.

ARTICLE XVII

GENERAL PROVISIONS

1. Prior Approval by First Mortgagee. The prior written approval of all First Mortgagees will be required for any of the following:

(a) An amendment to the Declaration which changes the pro rata interest or obligation of any individual Unit for the purpose of: (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each Unit in the Common Elements;

(b) The subdivision or partition of an Unit.

2. First Mortgagee Requests. Upon specific written request of a First Mortgagee or its servicer to the Board, the First Mortgagee shall receive some or all of the following as designated in the request:

(a) Copies of budgets, notices of assessment, or any other notices or Statements provided under this Declaration by the Association to the Owner of the Unit covered by the First Mortgagee's mortgage.

UNOFFICIAL COPY

(b) Any audited or unaudited financial statements of the Association which are prepared for the Association and distributed to the Owners;

(c) Copies of notices of meeting of the Owners and the right to be represented at any such meetings by a designated representative;

(d) Notice of the decision of the Owners to make any material amendment to this Declaration of the By-Laws of the Association;

(e) Notice of substantial damage to or destruction of any Unit (in excess of \$1,000) or any part of the Common Elements (in excess of \$10,000);

(f) Notice of the commencement of any condemnation or eminent domain proceedings with respect to any part of the Property;

(g) Notice of any default of the Owner of the Unit which is subject to the First Mortgagee's mortgage, where such default is not cured by the Owner within thirty (30) days after the giving of notice by the Association to the Owner of the existence of the default;

(h) The right to examine the books and records of the Association at any reasonable time; or

(i) The effectuation of any decision by the Association to terminate professional management and assume self-management of the Property.

The request of a First Mortgagee or its servicer shall specify which of the above it desires to receive and shall indicate the address to which any notices or documents shall be sent by the Association. Failure of the Association to provide any of the foregoing to a First Mortgagee who has made a proper request therefor shall not affect the validity of any action which is related to any of the foregoing. The Association need not inquire into the validity of any request made by a First Mortgagee hereunder, and in the event of multiple requests from purported First Mortgagees of the same Unit, the Association shall honor the most recent request received.

3. Insurance on Condemnation Distributions. In the event of (i) any distribution of any insurance proceeds hereunder as a result of a substantial

UNOFFICIAL COPY

damage to, or destruction of, any part of the Property or (ii) any distribution of the proceeds of any award or settlement as a result of condemnation or eminent domain proceedings with respect to any part of the Property, any such distribution shall be made to the Owners and their respective First Mortgagees, as their interests may appear, and no Owner or other party shall be entitled to priority over the First Mortgagee of an Unit with respect to any such distribution to or with respect to such Unit; provided, nothing in this Paragraph shall be construed to deny to the Association the right to apply any such proceeds to repair or replace damaged portions of the Property or to restore what remains of the Property after condemnation or taking by eminent domain of a part of the Property

4. Special Amendment. Association reserves the right and power to record a special amendment ("Special Amendment") to this Declaration at any time and from time to time which amends this Declaration (i) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veteran's Administration, or any other governmental agency or any other public, quasi-public, or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (ii) to induce any of such agencies or entities to make, purchase, sell, insure, or guarantee first mortgages covering Units, (iii) to bring this Declaration into compliance with the Act or (iv) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Association to vote in favor of, make, or consent to a Special Amendment on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting an Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Association to vote in favor of, make, execute and record Special Amendments.

5. Waivers. Each Owner hereby waives and releases any and all claims which such Owner may have against any other Owner, Occupant, the Association, its officers, members of the Board, the Association, the managing agent, if any, and their respective employees and agents, for damage to the Common Elements, the Units, or to any personal property located in the Units or Common Elements, caused by fire or other casualty, to the extent such damage is covered by fire or other form of casualty insurance.

6. Notices to Unit Owners and Board. Notices provided in this Declaration and in the Act shall be in writing and shall be addressed to the Board or Association or any Owner, as the case may be at the address of the Building (indicating thereon the number of the respective Unit if addressed to an Owner)

UNOFFICIAL COPY

or at such other address as herein provided. The President of the Association is hereby designated as the person to mail and receive all notices as provided in the Act and in this Declaration. The Association or Board may designate a different address for notices by giving written notice of such change of address to all Owners. Any Owner may also designate a different address for notices by giving written notice of such change of address to the Board or Association. Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail, return receipt requested, or when delivered in person with written acknowledgment of the receipt thereof, or, if addressed to an Owner, when deposited in the mailbox in the Building or at the door of the Owner's Unit in the building.

7. Notices to Devisees. Notices required to be given any devisee, heir, or personal representative of a deceased Owner may be delivered either personally or by mail to such party at the address appearing in the records of the court wherein the estate of such deceased Owner is being administered.

8. Grantee's and Lessees Bound by Declaration. Each grantee, by the acceptance of a deed of conveyance, and each purchaser under, Articles of Agreement for Condominium Deed, and each tenant under a lease for an Unit, accepts the same subject to all restrictions, conditions, covenants, reservations, liens, and charges, and the jurisdiction, rights, and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved, or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any Person having at any time any interest or estate in the Property, and shall inure to the benefit of such Person in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance or lease.

9. Non-Waivers. No covenants, restrictions, conditions, obligations, or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches which may occur.

10. Invalidity Savings Clause. If any provision of the Declaration, By-laws, or any section, sentence, clause, phrase, or word, or the application thereof in any circumstances is held invalid, the validity of the remainder of the Declaration and By-laws and of the application of any such provision, section, sentence, clause, phrase, or word in any other circumstances shall not be affected thereby.

11. Violation of Statute Savings Clause. If any of the options, privileges, covenants, or rights created by this Declaration would otherwise violate (a) the rule against perpetuities or some analogous statutory provisions, or (b) any other statutory or common law rules imposing time limits, then such provision shall

UNOFFICIAL COPY

continue only until twenty-one (21) years after the death of the survivor of the new living lawful descendants of the incumbent Mayor of the City of Chicago, and the incumbent President of the United States.

12. Miscellaneous Provisions.

(a) The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating an uniform plan for the operation of a first class residential condominium.

(b) In the event title to any Unit Ownership is conveyed to a title-holding trust under the terms of which all powers of management, operation, and control of the Unit Ownership remain vested in the trust beneficiary or beneficiaries, the beneficiaries thereunder from time to time shall be responsible for payment of all obligations, liens, or indebtedness and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Unit Ownership. No claim shall be made against any such title-holding trustee personally for payment of any lien or obligation hereunder created, and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon the Unit Ownership and the beneficiaries of such trust, notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title to such Unit Ownership.

(c) The Association or its officers, agents, or employees may enter any Unit when necessary in connection with any painting, maintenance, repair, or reconstruction for which the Association is responsible, or which the Association has the right or duty to perform. Such entry shall be made with as little inconvenience to the Unit Owner as practicable, and except in the event of emergency shall be done upon reasonable notice to the Unit Owner. Any damage caused thereby shall be repaired by the Association as a Common Expense.

(d) Each grantee, each purchaser under Articles of Agreement for Deed, and each tenant under a lease accepts the same subject to all easements, restrictions, conditions, covenants, reservations, liens and charges, the Bylaws, the rules and regulations of the Association, and the jurisdiction, rights and powers created or reserved by this Declaration, and the provisions of the Act, as at any time amended, and all easements, rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in said land, and shall inure to the benefit of each grantee in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

UNOFFICIAL COPY

(e) No terms, obligations, covenants, conditions, restrictions or provisions imposed hereby or contained herein shall be abrogated or waived by any failure to enforce the same, no matter how many violations or breaches may occur.

(f) Whenever any notice is required to be given under the provisions of this Declaration or the Bylaws, a waiver thereof in writing by the person or persons entitled to such notice whether before or at the time stated therein shall be deemed equivalent to the giving of such notice, provided such waiver or the time of giving same is not contrary to the provisions of the Act. Notices required to be given to any devisee or personal representative of a deceased Unit Owner shall be delivered by mail to such party at his or its address appearing in the records of the court wherein the estate of such deceased owner is being administered.

ARTICLE XVIII

VILLAGE OF PALATINE

1. Access Rights of the Village. The Village of Palatine is hereby granted a perpetual easement, right, and privilege to enter upon the Property for the purpose of completing, repairing, maintaining, and replacing the common elements in the event the Association fails to repair, maintain, and/or replace the common elements.

2. Village Right to Charge. In the event the Village takes on the responsibility of repairing, maintaining or replacing any portion of the common elements, the Village shall have the right to charge the cost thereof back to the Association and the Unit Owners, jointly and severally. The Village may place a lien upon the units and common elements in the event the Association fails to pay or reimburse the Village for the costs expended by the Village. The Village shall have the right to collect its attorneys fees incurred in enforcing the terms and conditions of the Declaration as well as charge interest on the monies advanced by the Village at the rate of eighteen percent (18%) per annum from the date incurred until the date paid.

3. Village's Consent to Amendment. Notwithstanding anything contained elsewhere in this Declaration, all amendments or modifications to this Declaration shall require the prior written consent of the Village.

4. Notice. Prior to exercising its right to enter onto the property, the Village shall first give at least ten (10) days prior written notice to the Association's Board of Directors and/or Unit Owner specifically detailing what item or items need to be completed, repaired, and/or replaced.

UNOFFICIAL COPY

5. Severability. Invalidation of all or any portion of any of the covenants, restrictions, easements, condition, reservations, liens and charges imposed by this Declaration, by legislation, judgment or court order shall in no way affect any other provisions of this Declaration which shall remain in full force and effect.

APPROVED THIS, 7th DAY OF NOVEMBER, 2007

PRESERVE OF PALATINE CONDOMINIUMS ASSOCIATION

James E. Johnson
Joseph Shing
Lee H. Heston
Mark A. [unclear]
Paul Belletta

Being the Board of Directors of the
Preserve of Palatine Condominiums Association

UNOFFICIAL COPY

Exhibit "A"

Preserve of Palatine Condominium Association

Sample Legal: Unit _____ in the Preserve of Palatine Condominiums in Section 15, Township 42 North, Range 10, East of the Third Principal Meridian, in Cook County, Illinois, as delineated on a survey attached as Exhibit "C" to the Declaration of Condominium recorded June 5, 2006, as Document Number 0615634000, as amended from time to time, together with its undivided percentage interest in the common elements.

Unit	Pin	% Interest	Commonly known as (for informational purposes only)
201	02-15-303-056-1001	1.197	455 W Wood St Palatine, IL 60067
202	02-15-303-056-1002	1.022	455 W Wood St Palatine, IL 60067
203	02-15-303-056-1003	1.409	455 W Wood St Palatine, IL 60067
204	02-15-303-056-1004	0.819	455 W Wood St Palatine, IL 60067
205	02-15-303-056-1005	0.974	455 W Wood St Palatine, IL 60067
206	02-15-303-056-1006	1.022	455 W Wood St Palatine, IL 60067
207	02-15-303-056-1007	1.197	455 W Wood St Palatine, IL 60067
208	02-15-303-056-1008	1.122	455 W Wood St Palatine, IL 60067
209	02-15-303-056-1009	0.968	455 W Wood St Palatine, IL 60067
210	02-15-303-056-1010	1.134	455 W Wood St Palatine, IL 60067
211	02-15-303-056-1011	0.912	455 W Wood St Palatine, IL 60067
212	02-15-303-056-1012	1.021	455 W Wood St Palatine, IL 60067
213	02-15-303-056-1013	0.968	455 W Wood St Palatine, IL 60067
214	02-15-303-056-1014	1.122	455 W Wood St Palatine, IL 60067
301	02-15-303-056-1015	1.197	455 W Wood St Palatine, IL 60067
302	02-15-303-056-1016	1.022	455 W Wood St Palatine, IL 60067
303	02-15-303-056-1017	1.410	455 W Wood St Palatine, IL 60067
304	02-15-303-056-1018	0.819	455 W Wood St Palatine, IL 60067
305	02-15-303-056-1019	0.974	455 W Wood St Palatine, IL 60067
306	02-15-303-056-1020	1.022	455 W Wood St Palatine, IL 60067
307	02-15-303-056-1021	1.197	455 W Wood St Palatine, IL 60067
308	02-15-303-056-1022	1.122	455 W Wood St Palatine, IL 60067
309	02-15-303-056-1023	1.004	455 W Wood St Palatine, IL 60067
310	02-15-303-056-1024	1.134	455 W Wood St Palatine, IL 60067
311	02-15-303-056-1025	0.912	455 W Wood St Palatine, IL 60067
312	02-15-303-056-1026	1.021	455 W Wood St Palatine, IL 60067
313	02-15-303-056-1027	1.004	455 W Wood St Palatine, IL 60067
314	02-15-303-056-1028	1.122	455 W Wood St Palatine, IL 60067
401	02-15-303-056-1029	1.197	455 W Wood St Palatine, IL 60067
402	02-15-303-056-1030	1.022	455 W Wood St Palatine, IL 60067
403	02-15-303-056-1031	1.410	455 W Wood St Palatine, IL 60067
404	02-15-303-056-1032	0.819	455 W Wood St Palatine, IL 60067
405	02-15-303-056-1033	0.974	455 W Wood St Palatine, IL 60067
406	02-15-303-056-1034	1.022	455 W Wood St Palatine, IL 60067
407	02-15-303-056-1035	1.197	455 W Wood St Palatine, IL 60067
408	02-15-303-056-1036	1.122	455 W Wood St Palatine, IL 60067
409	02-15-303-056-1037	1.004	455 W Wood St Palatine, IL 60067
410	02-15-303-056-1038	1.134	455 W Wood St Palatine, IL 60067
411	02-15-303-056-1039	0.912	455 W Wood St Palatine, IL 60067
412	02-15-303-056-1040	1.021	455 W Wood St Palatine, IL 60067

UNOFFICIAL COPY

Unit	Pin	% Interest	Commonly known as (for informational purposes only)
413	02-15-303-056-1041	1.004	455 W Wood St Palatine, IL 60067
414	02-15-303-056-1042	1.122	455 W Wood St Palatine, IL 60067
501	02-15-303-056-1043	1.051	455 W Wood St Palatine, IL 60067
502	02-15-303-056-1044	1.410	455 W Wood St Palatine, IL 60067
503	02-15-303-056-1045	0.818	455 W Wood St Palatine, IL 60067
504	02-15-303-056-1046	0.974	455 W Wood St Palatine, IL 60067
505	02-15-303-056-1047	1.051	455 W Wood St Palatine, IL 60067
506	02-15-303-056-1048	1.009	455 W Wood St Palatine, IL 60067
507	02-15-303-056-1049	1.134	455 W Wood St Palatine, IL 60067
508	02-15-303-056-1050	0.912	455 W Wood St Palatine, IL 60067
509	02-15-303-056-1051	1.021	455 W Wood St Palatine, IL 60067
510	02-15-303-056-1052	1.011	455 W Wood St Palatine, IL 60067
201A	02-15-303-056-1053	1.266	455 W Wood St Palatine, IL 60067
202A	02-15-303-056-1054	0.951	455 W Wood St Palatine, IL 60067
203A	02-15-303-056-1055	1.114	455 W Wood St Palatine, IL 60067
204A	02-15-303-056-1056	1.120	455 W Wood St Palatine, IL 60067
205A	02-15-303-056-1057	0.973	455 W Wood St Palatine, IL 60067
206A	02-15-303-056-1058	1.022	455 W Wood St Palatine, IL 60067
207A	02-15-303-056-1059	1.195	455 W Wood St Palatine, IL 60067
208A	02-15-303-056-1060	1.122	455 W Wood St Palatine, IL 60067
209A	02-15-303-056-1061	0.968	455 W Wood St Palatine, IL 60067
210A	02-15-303-056-1062	1.132	455 W Wood St Palatine, IL 60067
211A	02-15-303-056-1063	0.912	455 W Wood St Palatine, IL 60067
212A	02-15-303-056-1064	1.021	455 W Wood St Palatine, IL 60067
213A	02-15-303-056-1065	0.968	455 W Wood St Palatine, IL 60067
214A	02-15-303-056-1066	1.122	455 W Wood St Palatine, IL 60067
301A	02-15-303-056-1067	1.266	455 W Wood St Palatine, IL 60067
302A	02-15-303-056-1068	0.951	455 W Wood St Palatine, IL 60067
303A	02-15-303-056-1069	1.114	455 W Wood St Palatine, IL 60067
304A	02-15-303-056-1070	1.120	455 W Wood St Palatine, IL 60067
305A	02-15-303-056-1071	0.973	455 W Wood St Palatine, IL 60067
306A	02-15-303-056-1072	1.022	455 W Wood St Palatine, IL 60067
307A	02-15-303-056-1073	1.195	455 W Wood St Palatine, IL 60067
308A	02-15-303-056-1074	1.122	455 W Wood St Palatine, IL 60067
309A	02-15-303-056-1075	1.004	455 W Wood St Palatine, IL 60067
310A	02-15-303-056-1076	1.132	455 W Wood St Palatine, IL 60067
311A	02-15-303-056-1077	0.912	455 W Wood St Palatine, IL 60067
312A	02-15-303-056-1078	1.021	455 W Wood St Palatine, IL 60067
313A	02-15-303-056-1079	1.004	455 W Wood St Palatine, IL 60067
314A	02-15-303-056-1080	1.122	455 W Wood St Palatine, IL 60067
401A	02-15-303-056-1081	1.266	455 W Wood St Palatine, IL 60067
402A	02-15-303-056-1082	0.951	455 W Wood St Palatine, IL 60067
403A	02-15-303-056-1083	1.114	455 W Wood St Palatine, IL 60067
404A	02-15-303-056-1084	1.120	455 W Wood St Palatine, IL 60067
405A	02-15-303-056-1085	0.973	455 W Wood St Palatine, IL 60067
406A	02-15-303-056-1086	1.022	455 W Wood St Palatine, IL 60067
407A	02-15-303-056-1087	1.195	455 W Wood St Palatine, IL 60067
408A	02-15-303-056-1088	1.122	455 W Wood St Palatine, IL 60067
409A	02-15-303-056-1089	1.004	455 W Wood St Palatine, IL 60067
410A	02-15-303-056-1090	1.132	455 W Wood St Palatine, IL 60067

UNOFFICIAL COPY

Unit	Pin	% Interest	Commonly known as (for informational purposes only)
411A	02-15-303-056-1091	0.912	455 W Wood St Palatine, IL 60067
412A	02-15-303-056-1092	1.021	455 W Wood St Palatine, IL 60067
413A	02-15-303-056-1093	1.004	455 W Wood St Palatine, IL 60067
414A	02-15-303-056-1094	1.122	455 W Wood St Palatine, IL 60067

100%

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT "C"

AMENDED AND RESTATED BY-LAWS OF THE PRESERVE OF PALATINE CONDOMINIUMS

ARTICLE I BOARD OF DIRECTORS

1(a). Board of Directors. The direction and administration of the property shall be vested in a Board of Directors consisting of five (5) persons, who shall be appointed or elected in the manner herein provided. Each member of the Board shall be one of the unit owners and shall reside on the property, provided, however, in the event an unit owner is a corporation, partnership, trust, or other legal entity other than a natural person or persons, then any officer, director, or other designated agent of such corporation, partner of such partnership, beneficiary or other designated agent of such trust or manager of such other legal entity shall be eligible to serve as a member of the Board provided such person must reside on the property unless he is a Board member nominated by the trustee.

1(b). Election. In all elections for members of the Board, each voting member shall be entitled to cumulate his votes in the manner provided by law and the candidates receiving the highest number of votes with respect to the number of offices to be filled shall be deemed to be elected. Five (5) Board members were elected at the first annual meeting. The three (3) persons receiving the highest number of votes at the first annual meeting were elected to the Board for a term of two (2) years and the two (2) persons receiving the next highest number of votes were elected to the Board for a term of one (1) year. Upon the expiration of the terms of office of the Board members so elected thereafter, successors shall be elected for a term of two (2) years each. The voting members having at least two-thirds (2/3) of the total votes may from time to time increase or decrease the number of persons on the Board or may increase or decrease the term of office of Board members at any annual or special meeting provided such number shall not be less than three (3), and the terms of at least one-third (1/3) of the persons on the Board shall expire annually and no Board member or Officer shall be elected to a term in excess of two (2) years; provided, however, a Board member or officer may be re-elected at the expiration of his term. Members of the Board shall receive no compensation for their services unless expressly authorized by the Board with the approval of voting members having two-thirds (2/3) of the total votes. Vacancies in the Board, including vacancies due to any increase in the number of persons on the board, shall be filled by the Board by a two-thirds (2/3) vote until the next annual meeting at which time the vacancy shall be filled by the voting members present

UNOFFICIAL COPY

at the next annual meeting or at a special meeting of the voting members called for such purpose. Except as otherwise provided in this Declaration, the property shall be managed by the Board, and the Board shall act by majority vote of those present at its meeting when a quorum exists. A majority of the total number of the members of the Board shall constitute a quorum. Meetings of the Board may be called, held, and conducted in accordance with such resolutions as the Board may adopt.

1(c). Election of Officers. The Board shall elect from among its members a president who shall preside over both its meetings and those of the voting members, be the chief executive officer of the Board and the Association, and execute amendments to the condominium instruments; a secretary who shall keep the minutes of all meetings of the Board and of the voting members, mail and receive all notices, and in general perform all the duties incident to the office of secretary; a treasurer to keep the financial records and books of account; and such additional officers as the Board shall see fit to elect. Any officer may be removed at any meeting by the affirmative vote of the majority of the members of the Board, either with or without cause, and any vacancy in any office may be filled by the Board by a two-thirds (2/3) vote at any meeting thereof.

1(d). Removal of Board Member. Any Board members may be removed from office by affirmative vote of the voting members having at least two-thirds (2/3) of the total votes at any special meeting called for the purpose. A successor to fill the unexpired term of a Board member removed may be elected by the voting members at the same meeting or any subsequent annual meeting or special meeting called for that purpose.

1(e). Meetings. The Board shall meet at least four (4) times annually and at such other times as the Board deems necessary. Meetings of the Board shall be open to any unit owner except for the portion of any meeting held:

- (a) To discuss litigation when an action against or on behalf of the Association has been filed and is pending in a court or administrative tribunal, or when the Board finds that such an action is probable or imminent;
- (b) To consider information regarding appointment, employment or dismissal of an employee; or
- (c) To discuss violations of rules and regulations of the Association or a Unit Owner's unpaid share of common expenses.

Any vote on these matters shall be taken at a meeting or portion thereof open to any Unit Owner. Any Unit Owner may record the proceedings at meetings or portions thereof required to be open by the Illinois Condominium Property Act by tape, film or other means. The Board may prescribe reasonable

UNOFFICIAL COPY

rules and regulations to govern the right to make such recordings Notice of any such meeting shall be either mailed or personally delivered to at least forty-eight (48) hours prior thereto unless a written waiver of such notice is signed by the person or persons entitled to such notice.

2. General Powers of the Board. The powers and duties of the Board of Directors shall include, but shall not be limited to, the following matters:

(a) Operation, care, upkeep, maintenance, replacement, and improvement of the common elements.

(b) Preparation, adoption and distribution of the annual budget for the property.

(c) Levying of assessments.

(d) Collection of assessments from unit owners.

(e) Employment and dismissal of the personnel necessary or advisable for the maintenance and operation of the common elements.

(f) Obtaining adequate and appropriate kinds of insurance.

(g) Owning, conveying, encumbering, leasing, and otherwise dealing with units conveyed to or purchased by it.

(h) Keeping of detailed accurate records of the receipts and expenditures affecting the use and operation of the property.

(i) To have access to each unit from time to time as may be necessary for the maintenance, repair, or replacement of any common elements therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the common elements or to other unit or units.

(j) To pay for water, waste removal, other operating expenses, electricity, telephone, and other necessary utility service for the common elements.

(k) To pay for landscaping, gardening, snow removal, painting, cleaning, tuckpointing, maintenance, decorating, repair, and replacement of the

UNOFFICIAL COPY

common elements (but not including the windows and glass doors appurtenant to the unit, if any, and the interior surfaces of the units and of the hallway doors appurtenant thereto, which the unit owners shall paint, clean, decorate, maintain and repair, except if necessitated by repairs to the common elements) and such furnishings and equipment for the common elements as the Board shall determine are necessary and proper, and the Board shall have the exclusive right and duty to acquire the same for the common elements,

(l) To pay for any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations or assessments for which the Board is required to secure or pay pursuant to the terms of this declaration or bylaws of which, in its opinion, shall be necessary or proper for the maintenance and operation of the property as a first-class condominium Residential building or for the enforcement of these restrictions.

(m) To pay any amount necessary to discharge any mechanic's lien or other encumbrance against the entire property or any part thereof which may, in the opinion of the Board, constitute a lien against the property or against the common elements rather than merely against the interests therein of particular unit owners. Where one or more unit owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Board by reason of said lien or liens shall be specially assessed to said unit owners.

(n) To maintain and repair any unit if such maintenance or repair is necessary in the discretion of the board to protect the common elements or any other portion of the building and a unit owner of any unit has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair mailed or delivered by the Board to said unit owner, provided the Board shall levy a special assessment against such unit owner for the cost of said maintenance or repair.

(o) The Board or its agent, upon reasonable notice, may enter any unit when necessary in connection with any maintenance or construction for which the Board is responsible. Such entry shall be made with as little inconvenience

UNOFFICIAL COPY

to the unit owner as practicable, and any damage caused thereby shall be repaired by the Board as a common expense.

(p) The Board's powers hereinabove enumerated and described in the Declaration shall be limited in that the Board shall have no authority to acquire and pay for any structural alterations, additions to, or improvements of the common elements (other than for purposes of replacing or restoring portions of the common elements subject to all the provisions of this Declaration) requiring any expenditure in excess of Ten Thousand Dollars (\$10,000.00), without in each case the prior approval of voting members having three-fourths (3/4) of the total votes.

(q) All agreements, contracts, deeds, leases, vouchers for payment of expenditures and other instruments shall be signed by such officer or officers, agent or agents of the Board and in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such documents shall be signed by the treasurer and countersigned by the president of the Board.

(r) The Board may adopt such reasonable rules and regulations, not inconsistent herewith, as it may deem advisable for the maintenance, administration, management, operation, use, conservation, and beautification of the property, and for the health, comfort, safety, and general welfare, of the Unit owners and occupants of the property. Written notice of such rules and regulations shall be given to all unit owners and occupants, and the entire property shall at all times be maintained subject to such rules and regulations.

(s) The Board may engage the services of an agent to manage the property to the extent deemed advisable by the Board.

(t) Nothing hereinabove contained shall be construed to give the Board, association or unit owners' authority to conduct an active business for profit on behalf of all the unit owners or any of them.

UNOFFICIAL COPY

(u) Upon authorization by the affirmative vote of not less than a majority of the voting members at a meeting duly called for such purposes, the Board, acting on behalf of all unit owners, shall have the power to seek relief from or in connection with the assessment or levy of any real property taxes, special assessments and any other special taxes or charges of the State of Illinois or any political subdivision thereof, or any other lawful taxing or assessing body, which are authorized by law to be assessed and levied on real property and to charge and collect all expenses incurred in connection therewith as common expenses.

(v) Record the dedication of a portion of the Common Elements to a public body for use as or in connection with a street or utility where authorized by the Unit Owners.

(w) Record the granting of an easement for the laying of cable television cable where applicable.

ARTICLE II

MEMBERS (UNIT OWNERS)

1. Voting Rights. There shall be one person with respect to each Unit ownership who shall be entitled to vote at any meeting of the unit owners. Such voting members shall be the unit owner or one of the group composed of all the unit owners of a unit ownership or may be some person designated by such unit owners or unit owner or his duly authorized attorney-in-fact to act as proxy on his or their behalf and who need not be a unit owner. Such designation shall be made in writing to the Board, shall be revocable at any time by actual notice to the Board of the death or judicially declared incompetence of any designator, or by written notice to the Board by the unit owner or unit owners or the duly authorized attorney-in-fact, shall bear the date of its execution and shall be invalid after eleven (11) months from date of execution unless otherwise provided in the proxy. At all meetings of unit owners at which a vote electing members of the Board of Directors is held, each unit shall have one (1) vote. Any or all unit owners of a unit ownership, and their designee, if any, may be present at any meeting of the voting members, but only the voting member of the unit ownership may vote or take any other action as a voting member, either in person or by proxy. Except for votes by unit owners for members of the Board Directors as stated above, the total number of votes of all voting members shall be 100, and each unit owner or group of unit owners shall be entitled to the number of votes equal to the total of the percentage of ownership in the common elements applicable to his or their unit ownership as set forth in Exhibit "B" as amended from time to time. The trustee shall designate the voting member with respect to

UNOFFICIAL COPY

any unit ownership owned by the trustee. The Association shall have one class of membership only, and nothing contained in these condominium instruments shall permit or allow different classes of membership among the unit owners.

2(a). Meetings. Meetings of the voting members shall be held at the property or at such other place in Cook County, Illinois, as may be designated in any notice of a meeting. The presence in person or by proxy at any meeting of the voting members of at least twenty percent (20%) of the voting members shall constitute a quorum.

2(b). Annual Meetings. There shall be an annual meeting of the voting members on the first Wednesday of November of each November thereafter at 7:30 p.m. or at such other reasonable time or date (not more than thirty (30) days before or after such date) as may be designated by written notice of the Board delivered to the voting members not less than ten (10) days or more than thirty (30) days prior to the date fixed for said meeting.

2(c). Special Meetings. Special meetings of the Voting members may be called at any time for the purpose of considering matters which, by the terms of this Declaration, require the approval of all or some of the voting members or any other reasonable purpose. Said meetings shall be called by written notice, authorized by the president of the Board, a majority of the Board, or, by the voting members having 20% of the total votes and delivered not less than ten (10) days or more than thirty (30) days prior to the date fixed for said meeting. The notices shall specify the date, time, and place of the meeting and the matters to be considered. Matters to be submitted at special meetings of the voting members shall first be submitted to the Board or directors at least ten (10) days prior to the special meeting who shall then submit the matters to the voting members.

3. Notices of Meetings. Notices of meetings required to be given herein may be delivered either personally or by mail to the person entitled to vote thereat, addressed to each such person at the address given by him to the Board for the purpose of service of such notice, or to the unit of the unit owner with respect to which such voting right appertains if no address has been given to the Board.

4(a) Miscellaneous. No merger or consolidation of the Association, sale, lease, exchange, mortgage, pledge, or other disposition of all or substantially all of the property and assets of the Association nor the purchase or sale of land or of units on behalf of all unit owners shall be effectuated unless there is an affirmative vote of two-thirds (2/3) of the votes of unit owners, unless a greater percentage is otherwise provided in the declaration.

4(b) Miscellaneous. When thirty percent (30%) or fewer of the units, by number, possess over fifty percent (50%) in the aggregate of the votes in the

UNOFFICIAL COPY

association, any percentage vote of members specified in the condominium instruments, or the Act, shall require instead the specified percentage by number of units rather than by percentage of interest in the common elements allocated to units that would otherwise be applicable.

ARTICLE III

ASSESSMENT - MAINTENANCE FUND

1. Estimated Annual Budget and Assessments. Each year on or before November 1, the Board shall estimate the total amount necessary to pay the cost of all common expenses which will be required during the ensuing calendar year for the rendering of all services together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements. The annual budget shall set forth with particularity all anticipated common expenses by category as well as all anticipated assessments and other income. The budget shall also set forth each unit owner's proposed common expense assessment. Each unit owner shall receive a copy of the proposed annual budget at least thirty (30) days prior to the adoption thereof by the Board of Directors. The annual budget shall also take into account the estimated net available cash income for the year from the operation or use of the common elements, if any. The "estimated annual budget" shall be assessed to the unit owners according to each unit owner's percentage of ownership in the common elements as set forth in Exhibit "B" as amended from time to time attached hereto. Each unit owner shall receive notice in the same manner as is provided in this declaration for membership meetings, or any meeting of the Board of Directors concerning the adoption of the proposed annual budget or any increase, or establishment of an assessment. Said meetings of the Board of Directors shall be open to any unit owner, and notice of such meeting shall be mailed or personally delivered at least forty-eight (48) hours prior thereto, unless a written waiver of such notice is signed by the person or persons entitled to such notice before the meeting is convened. On or before January 1 of the ensuing year, and the first of each and every month of said year, said unit owner jointly and severally shall be personally liable for and obligated to pay to the Board or as it may direct one-twelfth (1/12) of the assessment against his unit ownership made pursuant to this section. On or before April 1 of each calendar year following the year in which the initial meeting is held, the board shall supply to all unit owners an itemized accounting of the common expenses for the preceding year actually incurred and paid, together with a tabulation of the amount collected pursuant to the budget or assessments, and showing the net excess or deficit of income over expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited according to each unit owner's percentage of ownership in the common elements to the next monthly installments due from unit owners under the current year estimate, until exhausted, and any net shortage shall be added according to each

UNOFFICIAL COPY

unit owner's percentage of ownership in the common elements to the installments due in the succeeding six (6) months after rendering of the accounting.

2. Reserves. The Board shall establish and maintain a reasonable reserve for contingencies and replacements. Any extraordinary or nonrecurring common expense, any common expense not set forth in the budget as adopted, and any increase in assessments over the amount adopted shall be separately assessed against all unit owners.

3. Separate or Special Assessment. If an adopted budget or any separate assessment (other than for an emergency) requires assessment against the Unit Owners in any fiscal or calendar year exceeding one hundred fifteen percent (115%) of the assessments for the preceding year, the Board of Directors, upon written petition of Unit Owners with twenty percent (20%) of the votes of the Association filed within fourteen (14) days of the Board action, shall call a meeting of the Unit Owners within thirty (30) days of the date of filing of the petition to consider the budget. Unless a majority of the votes of the Unit Owners are cast at the meeting to reject the budget, it shall be deemed ratified whether or not a quorum is present. In determining whether assessments exceeds one hundred fifteen percent (115%) of similar assessments in prior years, for purposes of this subparagraph, any authorized provisions for reasonable reserves for repair or replacement of the condominium property, and any anticipated expenses by the Association which are not anticipated to be incurred on a regular or annual basis, shall be excluded from the computation.

Separate assessments for expenditures relating to emergencies or mandated by law may be adopted by the Board of Directors without being subject to Unit Owner approval. As used herein, "emergency" means an immediate danger to the structural integrity of the Common Elements or to the life, health, safety or property of the Unit Owners.

4. Failure to Prepare Estimates. The failure or delay of the Board to prepare or serve the annual or adjusted estimate on the unit owner shall not constitute a waiver or release in any manner of such unit owner's obligation to pay the maintenance costs and necessary reserves, as herein provided whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, the unit owner shall continue to pay the monthly maintenance charge at the then existing monthly rate established for the previous period until the next monthly maintenance payment which is due not more than ten (10) days after such new annual or adjusted estimate shall have been mailed or delivered.

5. Books and Records. The Board shall keep full and correct books of account in chronological order of the receipts and expenditures affecting the common elements, specifying and itemizing the maintenance and repair

UNOFFICIAL COPY

expenses of the common elements and any other expenses incurred, Such records and the vouchers authorizing the payments shall be available for inspection by any unit owner or any representative of a unit owner duly authorized in writing at such reasonable time or times during normal business hours as maybe requested by the unit owner. Upon ten (10) days notice to the Board and payment of a reasonable fee, any unit owner shall be furnished a statement of his account settling forth the amount of any unpaid assessments or other charges due and owing from such unit owner.

6. Use of Funds. All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all the unit owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use, and account of all the unit Owners in the percentages set forth in Exhibit "B".

7. Insurance. Any insurance premiums assessed on a basis reflecting increased charges for coverage on certain units shall be assessed to such unit.

8. Assessments. If a unit owner is in default in the monthly payment of the aforesaid charges or assessments for thirty (30) days, the members of the Board may bring suit for and on behalf of themselves and as representatives of all unit owners to enforce collection thereof or to foreclose the lien therefore as hereinafter provided: and there shall be added to the amount due the costs of said suit and other fees and expenses together with legal interest and reasonable attorneys' fees to be fixed by the court. To the extent permitted by any decision or any statute or law now or hereafter effective, the amount of any delinquent and unpaid charges or assessments, and interest, costs, and fees as above provided, shall be and become a lien or charge against the unit ownership of the unit owner involved when payable and may be foreclosed by an action brought in the name of the Board as in the case of foreclosure of liens against real estate. Such lien shall take effect and be in force when and as provided in the Act; provided, however, encumbrances owned or held by any bank, insurance company, savings and loan association, or other lender shall be subject as to priority after written notice to said encumbrancer of unpaid common expenses only to the lien of all common expenses on the encumbered unit ownership which become due and payable subsequent to the date the encumbrancer either takes possession of the unit, accepts a conveyance of any interest in the unit ownership or has a receiver appointed in a suit to foreclose its lien. In addition to the foregoing, the Board or its agents shall have such other rights and remedies to enforce such collection as shall otherwise be provided or permitted by law from time to time. Without limiting the generality of the foregoing, if any unit owner shall fail to pay the proportionate share of the common expenses or of any other expenses required to be paid hereunder when due, such rights and remedies shall include: (1) the right to enforce the collection of such defaulting unit owner's share of such expenses (whether due by acceleration or otherwise), together with interest

UNOFFICIAL COPY

thereon, at the maximum rate permitted by law but in no event less than 18% per annum, and all fees and costs (including reasonable attorneys' fees) incurred in the collection thereof; (2) the right, by giving such defaulting unit owner five days' written notice of the election of the Board to accelerate the maturity of the unpaid installments of such expenses accruing with respect to the balance of the assessment year; and (3) the right to take possession of such defaulting unit owner's interest in the property, to maintain for the benefit of all the other unit owners an action for possession in the manner prescribed in "an Act in regard to Forcible Entry and Detainer" approved February 16, 1874, as amended, and to execute leases of such defaulting unit owner's interest in the property and apply the rents derived therefrom against such expenses.

9. Nonuse. No unit owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the common elements or abandonment of his unit.

10. Annual Report. Within ninety (90) days after the end of each fiscal year covered by any annual budget, or as soon thereafter as shall be practicable, but in any event within one hundred twenty (120) days, the Board shall cause to be furnished to each Unit Owner a statement for such year so ended, showing an itemized accounting of the Common Expenses for the preceding year actually incurred and paid, together with a tabulation of the amount collected pursuant to the budget or assessment, and showing the net excess or deficit of income over expenditures plus reserve and such other information as the Board may deem advisable.

ARTICLE IV

COVENANTS AND RESTRICTIONS AS TO USE AND OCCUPANCY

The units and common elements shall be owned, occupied, and used subject to the following covenants and restrictions:

1. General Use. No part of the property shall be used other than for housing and related common purposes for which the property was designed. Each unit or any two or more adjoining units used together shall be used as a residence for a single family or such other uses permitted by this declaration and for no other purpose. That part of the common elements separating any two or more adjoining units used together as aforesaid may be altered to afford ingress and egress to and from such adjoining units in such manner and upon such conditions as shall be determined by the Board in writing.

2. Obstruction of Common Elements and Unit Maintenance. There shall be no obstruction of the common elements nor shall anything be stored in the common elements without prior consent of the Board except as herein

UNOFFICIAL COPY

expressly provided. Each unit owner shall be obligated to maintain and keep in good order and repair his own unit.

3. **Prohibited Use.** Nothing shall be done or kept in any unit, or in the common elements, which will increase the rate of insurance on the building or contents thereof, applicable for residential use, without the prior written consent of the Board. No unit owner shall permit anything to be done or kept in his unit, or in the common elements which will result in the cancellation of insurance on the building, or contents thereof, or which would be in violation of any law. No waste shall be committed in the common elements. No unit owner shall overload the electric wiring in the building, or operate any machines, appliances, accessories, or equipment in such manner as to cause, in the judgment of the Board, an unreasonable disturbance to others, or connect any machines, appliances, accessories, or equipment to the heating or plumbing system, without the prior written consent of the Board.

4. **Unit Owner Insurance.** Each unit owner shall be responsible for his own insurance on his personal property in his own unit, his personal property stored elsewhere on the property and his personal liability to the extent not covered by the liability insurance for all the unit owners obtained by the Board as hereinbefore provided.

5. **Exterior Attachments.** Unit owners shall not cause or permit anything to be placed on the outside walls of the building and no sign, awning, canopy, shutter, radio or television antenna shall be affixed to or placed upon the exterior walls or roof or any part thereof without the prior consent of the Board.

6. **Window Treatment.** The use and the covering of the interior surfaces of the glass windows and/or doors appurtenant to the units of the building, whether by draperies, shades or other items visible from the exterior of the building shall be subject to the rules and regulations of the Board.

7. **Floor Coverings.** In order to enhance the soundproofing of the building, the floor covering for all occupied units shall meet a certain minimum standard as may be specified by rules and regulations of the Board.

8. **Pets, etc.** No animals, reptiles, rabbits, livestock, fowl, or poultry of any kind shall be raised, bred, or kept in any unit or in the common elements, except dogs, cats, or other household pets may be kept in units, subject to rules and regulations adopted by the Board, provided they are not kept, bred, or maintained for any commercial purpose, and provided further any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the property upon three (3) days' written notice from the Board. No more than two (2) household pets may be kept in any Unit.

UNOFFICIAL COPY

9. Nuisances. No noxious or offensive activity shall be carried on in any unit or in the common elements, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other unit owners or occupants.

10. Unsightliness. No clothes, sheets, blankets, laundry, or any kind of other articles shall be hung or exposed on any part of the common elements. The common elements shall be kept free and clear of rubbish, debris, and other unsightly materials.

11. Personal Effects. There shall be no playing, lounging, parking of baby carriages or playpens, bicycles, wagons, toys, vehicles, benches, or chairs on any part of the common elements except baby carriages, bicycles, and other personal property may be stored in the common storage area designated for that purpose.

12. Commercial Activities. No industry, business, trade, occupation, or profession of any kind, commercial, religious, educational, or otherwise, designated for profit, altruism, exploration, or otherwise, shall be conducted, maintained, or permitted in any unit.

13. "For Sale" and "For Rent" Signs. No "For Sale" or "For Rent" signs, advertising, or other displays shall be maintained or permitted on any part of the property except at such location and in such form as shall be determined by the Board.

14. Common Elements. Nothing shall be altered or constructed in or removed from the common elements except upon the written consent of the Board.

15. Exceptions. The unit restrictions in paragraphs 1 and 12 of this Article IV shall not, however, be construed in such a manner as to prohibit a unit owner from: (a) maintaining his professional library therein, (b) keeping his personal business or professional records or accounts therein, or (c) handling his personal business or professional telephone calls or correspondence therefrom. Such uses are expressly declared customarily incident to the principal residential use and not in violation of Sections 1 and 12 of this Article IV.

ARTICLE V

REMEDIES FOR BREACH OF COVENANTS RESTRICTIONS AND REGULATIONS

1. Abatement and Enjoinment. The violation of any restrictions or condition or regulation adopted by the Board, or the breach of any covenant or

UNOFFICIAL COPY

provision herein contained, shall give the Board the right, in addition to the rights set forth in the next succeeding section: (a) to enter upon that part of the property where such violation or breach exists and summarily abate and remove, at the expense of the defaulting unit owner, any structure, thing, or condition that may exist thereon contrary to the intent and the provisions hereof, and the trustee, the developer, or their successors or assigns, or the Board, or its agents, shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate, or remedy by appropriate legal proceeding, either at law or in equity, the continuance of any breach. All expenses of the Board in connection with such actions or proceedings, including court costs and attorneys' fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the rate of eighteen percent (18%) per annum until paid, shall be charged to and assessed against such defaulting unit owner, and shall be added to and deemed part of his respective share of the common expenses, and the Board shall have a lien for all of the same upon the unit ownership of such defaulting unit owner and upon all of his additions and improvements thereto and upon all his personal property in his unit or located elsewhere on the property. Any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board.

2. Involuntary Sale. If any unit owner (either by his own conduct or by the conduct of any occupant of his unit) shall violate any of the covenants or restrictions or provisions of this declaration, or the regulations adopted by the Board, and such violation shall continue for thirty (30) days after notice in writing from the board, or shall reoccur more than once after such notice, then the Board shall have the power to issue to the defaulting unit owner a ten (10) day notice in writing to terminate the rights of said defaulting unit owner to continue as a unit owner and to continue to occupy, use, or control his unit and thereupon an action in equity may be filed by the members of the Board against the defaulting unit owner for a decree of mandatory injunction against unit owner or occupant or, in the alternative, for a decree declaring the termination of the defaulting unit owner's right to occupy, use, or control the unit owned by him on account of the said violation, and ordering that the right, title, and interest of the unit owner in the property shall be sold (subject to the lien of any existing mortgage) at a judicial sale upon such notice and terms as the court shall establish except that the court shall enjoin and restrain the defaulting unit owner from re-acquiring his interest in the property at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorneys' fees and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting unit owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder or any liens, shall be paid to the unit owner. Upon the confirmation of such sale, the purchaser thereat shall thereupon be entitled to a deed to the unit ownership and, to immediate possession of the unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree shall

UNOFFICIAL COPY

provide, the purchaser shall take the interest in the property sold subject to this declaration.

ARTICLE VI

AMENDMENTS

1. These By-laws may be amended or modified from time to time by action or approval of the voting members having at least two-thirds (2/3) of the total votes, provided, however, no provision in these By-laws may be amended or modified so as to conflict with the provision of the Act or with the Declaration. Such amendments shall be recorded in the Office of the Recorder of Deeds of the County wherein the Property is located.

ARTICLE VII

FISCAL YEAR

1. The Fiscal year of the Association shall begin on the first day of January and end on the last day of December.

ARTICLE VIII

SEAL

1. If the Association is incorporated, the Board shall provide a corporate seal which shall be in the form of a circle and shall have inscribed thereon the name of the Association and the words "Corporate Seal, Illinois."

ARTICLE IX

CONSTRUCTION

1. Nothing hereinabove contained shall in any way be construed as altering, amending or modifying the Declaration. Said Declaration and these By-laws shall always be construed to further the harmonious, beneficial, cooperative and proper use and conduct of the Property. If there is any inconsistency or conflict between these By-laws and the aforesaid Declaration, the provisions of the Declaration shall control.

UNOFFICIAL COPY

2. All words and terms used herein which are also used in the Declaration shall have the same meaning as provided for such words and terms in the Declaration.

3. In the event the Association is incorporated, the words, "Board of Directors" and "Director" shall be substituted for the words "Board" and "Member of the Board," respectively, wherever they appear herein.

Property of Cook County Clerk's Office