
DECLARATION OF CONDOMINIUM
FOR
THE GARDENS AT SWAN CREEK CONDOMINIUM

DECLARATION OF CONDOMINIUM

Table of Contents

		<u>Page</u>
Article I	Declaration	6
Article II	Name; Description of Property	7
	2.01 Name	7
	2.02 Legal Description	7
	2.03 Address	7
Article III	Description of Units	7
	3.01 Identification of Units	7
	3.02 Boundaries of Units	7
	3.03 Description of Units	8
Article IV	Common Elements; Limited Common Elements; Community Garden	9
	4.01 Common Elements	9
	4.02 Limited Common Elements	9
	4.03 Community Garden as Common Element	10
	4.04 Conflict Between Unit Boundaries; Common Element Boundaries	11
Article V	Percentage Interests; Voting	11
	5.01 Percentage Interests	11
	5.02 Conveyance, Lease or Encumbrance of Percentage Interest	12
	5.03 Voting	12
	5.04 Multiple Owners	12
	5.05 Limitations on Voting Rights	12

	<u>Page</u>
Article VI Right to Expand	12
6.01 Reservation of Right	12
6.02 Number, Location and Style of Units	13
6.03 Effect on Percentage Interest in Common Elements	13
6.04 Effective Date of Expansion	13
6.05 Effect of Expansion	13
Article VII Condominium Association.....	14
7.01 General.....	14
7.02 Declarant Control.....	14
7.03 Board of Directors	15
7.04 Maintenance and Repairs.....	15
7.05 Common Expenses	16
7.06 General Assessments	17
7.07 Special Assessments	17
7.08 Common Surpluses	17
7.09 Certificate of Status	17
7.10 Management Services	17
Article VIII Alterations and Use Restrictions.....	18
8.01 Unit Alterations.....	18
8.02 Relocation of Boundaries.....	19
8.03 Separation of Units	19
8.04 Expenses	20
8.05 Use and Restrictions on Use of Unit.....	21
8.06 Nuisances	21
8.07 Lease of Units	21
8.08 Signs.....	22
8.09 Garbage and Refuse Disposal	23
8.10 Storage	23
8.11 Pets.....	23
8.12 Landscaping	23
Article IX Insurance	23
9.01 Fire and Extended Loss Insurance	23

9.02	Public Liability Insurance	24
9.03	Fidelity Insurance	24
9.04	Mutual Waiver of Subrogation	24
9.05	Standards for All Insurance Policies.....	25
Article X	Reconstruction, Repair or Sale in the Event of Damage or Destruction	25
10.01	Determination to Reconstruct or Repair	25
10.02	Plans and Specifications	25
10.03	Responsibility for Repair	25
10.04	Insurance Proceeds and Construction Fund.....	25
10.05	Assessments for Deficiencies	26
10.06	Surplus in Construction Funds.....	26
10.07	Damage or Destruction of Unit.....	26
Article XI	Condemnation	26
11.01	Allocation of Award	26
11.02	Determination to Reconstruct Common Elements	27
11.03	Plans and Specifications for Common Elements.....	27
11.04	Responsibility for Reconstruction	27
11.05	Assessments for Deficiencies	27
11.06	Surplus in Construction Fund	27
11.07	Percentage Interests Following Taking	28
Article XII	Mortgagees.....	28
12.01	Notice	28
12.02	Amendment of Provisions Affecting Mortgagees	28
12.03	Owners of Unmortgaged Units	28
12.04	Condominium Liens	28
Article XIII	Amendment.....	29
Article XIV	Remedies	29
Article XV	General	30
15.01	Utility Easements	30
15.02	Right of Entry	30
15.03	Notices	31

15.04 Severability	31
15.05 Declarant Access During Construction of Improvements	31
15.06 Agent for Service of Process	31
15.07 Assignment of Declarant's Rights.....	32
15.08 Conflicts.....	32
Consent of Mortgagee.....	34
Exhibit A.....	35
Exhibit B	36
Exhibit C	42

3. Due to a scrivener's error, Section 10.01 of the Declaration is incorrect. Section 10.01 of the Declaration should read, in its entirety, as follows:

10.01 Determination to Reconstruct or Repair. If all or any part of the Common Elements become damaged or are destroyed by any cause, the damaged Common Elements shall be repaired or reconstructed if the cost of such repair or reconstruction exceeds the available insurance proceeds by an amount of up to \$50,000 times the number of Units then making up the Condominium. Acceptance by a Unit Owner of a deed to a Unit shall be deemed to be consent to the authorization to the Association to so repair or reconstruct under such circumstances. If the cost of repair or reconstruction exceeds the available insurance proceeds by an amount exceeding \$50,000 times the number of Units then making up the Condominium, then the Condominium may be subject to partition as provided in the Wisconsin Condominium Ownership Act.

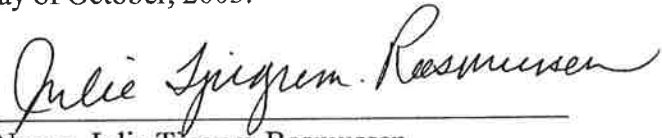
4. The undersigned executes this Affidavit for the purpose of making the correction to the Declaration.

5. Further the affiant sayeth naught.



Jesse S. Ishikawa

Sworn and subscribed to before me this 16th day of October, 2003.



Name: Julie Tjugum-Rasmussen
Notary Public, State of Wisconsin
My Commission: 06-24-07

This document was drafted by,
and should be returned to:

Jesse S. Ishikawa
Reinhart Boerner Van Deuren s.c.
22 East Mifflin Street
P.O. Box 2018
Madison, WI 53701-2018
(608) 229-2200

DANE COUNTY
REGISTER OF DEEDS

DOCUMENT #
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Rec. Fee: 83.00
Pages: 37

Document No.

DECLARATION OF CONDOMINIUM

002990

Return to:
Jesse S. Ishikawa
Reinhart Boerner Van Deuren s.c.
P.O. Box 2018
Madison, WI 53701-2018

225-0609-113-0100-2

Parcel Number

DECLARATION OF CONDOMINIUM

THIS DECLARATION OF CONDOMINIUM (this "Declaration"), is made this 12th day of September, 2003, by FITCHBURG LANDS, LLC, a Wisconsin limited liability company (the "Declarant").

ARTICLE I

DECLARATION

Declarant hereby declares that it is the sole owner of the Land (as defined in Section 2.02), together with all easements, rights and appurtenances pertaining thereto (the "Property"), and further declares that the Property is hereby submitted to the condominium form of ownership as provided in Chapter 703, Wisconsin Statutes (the "Condominium Ownership Act").

ARTICLE II

NAME; DESCRIPTION OF PROPERTY

2.01 Name. The name of the condominium created by this Declaration (the "Condominium") is "The Gardens at Swan Creek, a Condominium."

2.02 Legal Description. The land comprising the Property (the "Land") is located in the City of Fitchburg, County of Dane, State of Wisconsin, and is legally described on Exhibit A attached hereto and made a part hereof.

2.03 Address. The address of the Condominium is 2775 Crinkle Root Drive, Fitchburg, Wisconsin 53711.

ARTICLE III

DESCRIPTION OF UNITS

3.01 Identification of Units. The Condominium shall initially consist of ninety-two (92) units (individually a "Unit" and collectively the "Units") located in the five buildings (individually, a "Building" and collectively, the "Buildings") identified on the condominium plat attached hereto as Exhibit B and made a part hereof (the "Condominium Plat"). The Condominium Plat shows floor plans for each Unit showing the layout, boundaries and dimensions of each Unit. The Units shall be identified as Units 1-01 through 1-18, inclusive, 2-01 through 2-18, inclusive, 3-01 through 3-18, inclusive, 4-01 through 4-18, inclusive, and 5-01 through 5-20, inclusive, as numbered on the Condominium Plat. The Condominium shall be subject to expansion as described in Article VI. Each owner of a Unit is referred to as a "Unit Owner." Where a Unit has been sold under a land contract, the purchaser (and not the vendor) shall be the Unit Owner.

3.02 Boundaries of Units. The boundaries of each Unit shall be as follows:

(a) Upper Boundary. The upper boundary of the Unit shall be the interior lower surface of the supporting members of the roof above the highest level of the living area, extended to an intersection with the perimetrical boundaries.

(b) Lower Boundary. The lower boundary of the Unit shall be the upper surface of the unfinished floor of the lowest level of the Unit consisting of the garage and basement extended to an intersection with the perimetrical boundaries.

(c) Perimetrical Boundary. The perimetrical boundaries of the Unit shall be vertical planes of the inside surface of the studs supporting the interior walls, in either case extending to intersections with each other and with the upper and lower boundaries.

3.03 Description of Units. It is intended that the surface of each plane described above (be it drywall, tiles, wallpaper, paneling, carpeting or otherwise covered) is included as part of each defined Unit. The Unit shall include, without limitation, all improvements now or hereafter located within such boundaries, including:

(a) Windows, doors and garage doors (with all opening, closing and locking mechanisms and all hardware) which provide direct access to or within the Unit.

(b) Interior lights and light fixtures.

(c) Cabinets.

(d) Floor, wall, baseboard, or ceiling electrical outlets and switches and the junction boxes serving them.

(e) Telephone, telefax, cable television, computer, internet, stereo or other sound systems, if any, including outlets, switches, hardware and other appurtenances serving them.

(f) Plumbing fixtures, hot water heaters, fire sprinklers, if any, water softeners, if any, and the piping, valves, and other connecting and controlling mechanisms and devices lying between the fixture and water or sewage lines serving more than one (1) Unit.

(g) The heating, ventilating and air conditioning system, including the furnaces, air conditioning equipment, the control mechanisms, all vents from the Unit to the exterior of the Condominium, including vents for furnaces, clothes dryer, range hood, all other exhaust fans, and such other vents appurtenant to each Unit, condensers and all connections, thereto serving each Unit.

Specifically not included as part of a Unit are those structural components of each Building and any portion of the plumbing, electrical or mechanical systems of the Building serving more than one (1) Unit, even if located within the Unit. Any

structural components, plumbing, electrical, mechanical and public or private utility lines running through a Unit that serve more than one Unit are Common Elements.

ARTICLE IV

COMMON ELEMENTS; LIMITED COMMON ELEMENTS; COMMUNITY GARDEN

4.01 Common Elements. The common elements (the "Common Elements") include the following:

- (a) The Land;
- (b) The paved driveway, private streets, pedestrian walkways, if any, bicycle pathways, if any, rain gardens and Community Garden (as defined in Section 4.03 below) situated on the Land;
- (c) The foundations, columns, pilasters, girders, beams, front balconies, supports, main walls (which shall be defined as exterior walls and surfaces, structural walls, roof trusses and roofs;
- (d) That part of the fire sprinkler system, if any, and its associated piping and operating mechanisms serving more than one Unit;
- (e) Any other portion of the improvements to the Land which is not included within the boundary of a Unit as described above; and
- (f) Mailbox islands.

4.02 Limited Common Elements. Certain Common Elements as described in this Section shall be reserved for the exclusive use of the Unit Owners of one or more but less than all of the Units. Such Common Elements shall be referred to collectively as "Limited Common Elements." The following Common Elements shall be reserved for the exclusive use of one or more Unit Owners as described herein:

- (a) All sidewalks, access ways, steps, stoops, decks and patios attached to, leading directly to or from, or adjacent to each Unit; and
- (b) The parking spaces identified on the Condominium Plat as designated and reserved for any Unit, if any.

4.03 Community Garden as Common Element. The portion of the Common Elements designated as the Community Garden on the Condominium Plat shall be subject to the following terms and conditions, in addition to the terms and conditions affecting the Common Elements set forth herein (unless expressly excepted therefrom). The Community Garden shall include all pedestrian walkways, landscaping, lighting, and buildings and improvements located within the Community Garden.

(a) Management by Association. The Association shall have the express power and authority to appoint a Community Garden Manager to manage the affairs of the Community Garden, including the annual assignment of garden plots located within the Community Garden, management of the use of those garden plots, and the setting aside of portions of the Community Garden for composting areas, storage areas and other areas for the common benefit of those using the Community Garden.

(b) Community Garden Rules and Regulations. The Association shall promulgate rules and regulations to be included as part of the Rules and Regulations (as defined below). The Association may delegate the responsibility for promulgating such rules and regulations relating to the Community Garden to the Community Garden Manager. All rules and regulations relating to the Community Garden shall be circulated to and shall apply to all users of the Community Garden.

(c) Use of Garden Plots. The use of any garden plots within the Community Garden shall be made available on a uniform and nondiscriminating basis to the Unit Owners in accordance with the Rules and Regulations. The Association or, if appointed, the Community Garden Manager shall be charged with the power and authority to allocate garden plots pursuant to leases or licenses under which such garden plots shall be for the exclusive use of the lessee or licensee during the term of such lease or license. The leases and licenses may require payment of rent or use charges in an amount deemed appropriate by the Association in its sole discretion and calculated to apportion all Common Expenses (as defined in Section 7.05) attributable to the Community Garden among all lessees and licensees.

(d) Change in Use. The Association shall have the right to change the use of the Garden Area if there is insufficient interest by the Unit Owners in using the Garden Area as a garden and if the Association obtains prior zoning approvals for such change.

4.04 Conflict Between Unit Boundaries; Common Element Boundaries.

(a) If any portion of the Common Elements shall encroach upon any Unit, or if any Unit shall encroach upon any other Unit or upon any portion of the Common Elements as a result of the duly-authorized construction, reconstruction or repair of a Building, or as a result of settling or shifting of a Building, then the existing physical boundaries of such Units or Common Elements shall be conclusively presumed to be the boundaries of such Units or Common Elements, regardless of the variations between the physical boundaries described in Sections 3.02 and 3.03 or elsewhere in this Declaration or shown on the Condominium Plat and the existing physical boundaries of any such Units or Common Elements.

(b) If any portion of the Common Elements shall encroach upon any Unit, or if any Unit shall encroach upon any other Unit or upon any portion of the Common Elements as a result of the duly-authorized construction, reconstruction or repair of a Building, or as a result of settling or shifting of a Building, then a valid easement for the encroachment and for its maintenance shall exist so long as such Building stands; provided, however, that if any such encroachment or easement materially impairs any Unit Owner's enjoyment of the Unit owned by such Unit Owner or of the Common Elements in the judgment of the board of directors of the Association (as defined below), such encroachment shall be removed or just compensation shall be provided to each injured Unit Owner within ninety (90) days of the discovery of the encroachment.

(c) Following any change in the location of the boundaries of the Units under this Section 4.03, the square footages of all affected Units or Common Elements shall continue to be determined by the square footages, if any, shown on the Condominium Plat for all purposes under this Declaration.

ARTICLE V

PERCENTAGE INTERESTS; VOTING

5.01 Percentage Interests. The undivided percentage interest in the Common Elements appurtenant to each Unit shall be a percentage equal to one divided by the total number of Units. If the number of Units changes due to expansion of the Condominium under Article VI, the percentage interest shall be recalculated.

5.02 Conveyance, Lease or Encumbrance of Percentage Interest. Any deed, mortgage, lease or other instrument purporting to convey, encumber or lease any Unit shall be deemed to include the Unit Owner's undivided percentage interest in the Common Elements and in the insurance proceeds or condemnation awards even though such interest is not expressly described or referred to therein.

5.03 Voting. The vote of each Unit at meetings of the Association (as defined in Article VII) shall be equal to the percentage of interest in the Common Elements pertaining to such Unit.

5.04 Multiple Owners. If there are multiple owners of any Unit, it shall be necessary for those owners participating in the vote to act unanimously with respect to the vote pertaining to their Unit in order for the vote to be counted. In the alternative, the multiple owners may designate a single owner to exercise the vote pertaining to their Unit and shall file written notice of such designation with the secretary of the Association. Any vote cast by a person so designated shall be deemed to be the unanimous act of the multiple owners unless any of the other multiple owners notifies the secretary of the Association in writing at least forty-eight (48) hours prior to such vote that the vote is not unanimous among the multiple owners, in which case such vote shall be void.

5.05 Limitations on Voting Rights. No Unit Owner shall be entitled to vote on any matter submitted to a vote of the Unit Owners until the Unit Owner's name and current mailing address, and the name and address of the Mortgagee of the Unit, if any, has been furnished to the secretary of the Association. In the case of a Unit with multiple owners, no Unit Owner shall be entitled to vote on any matter submitted to a vote of Unit Owners until the designation described in Section 5.04 shall have also first been furnished to the secretary of the Association. The bylaws of the Association may contain a provision prohibiting any Unit Owner from voting on any matter submitted to a vote of the Unit Owners if the Association has recorded a statement of condominium lien on the Unit and the amount necessary to release the lien has not been paid at the time of the voting.

ARTICLE VI

RIGHT TO EXPAND

6.01 Reservation of Right. Declarant hereby reserves the right to expand the Condominium by adding all or a portion of the property described on Exhibit C attached hereto and made a part hereof. Such right to expand may be exercised from time to time within ten (10) years from the date of recording of this Declaration within the Office of the Dane County Register of Deeds. Any such expansion shall

be in the sole discretion of Declarant, and no Unit Owner or other person shall have the right to require the same. Each Owner, by accepting a deed to a Unit, acknowledges that the expansion area or parts thereof may be developed for uses other than as part of the Condominium.

6.02 Number, Location and Style of Units. The maximum number of Units in the Condominium as expanded shall be one hundred seventy-four (174). Declarant currently anticipates that the Units shall be positioned as shown on the Condominium Plat, but Declarant reserves the right to change the location if required to achieve the best development in the opinion of Declarant. The Units shall consist of Units of the general size as shown on the Condominium Plat, but Declarant reserves the right to change the size of the Units in order to meet market requirements. The additional improvements shall be compatible with and shall be of the same or similar quality of construction and materials as the existing improvements. All Units constructed within the expansion area shall be for residential use.

6.03 Effect on Percentage Interest in Common Elements. Upon any expansion as described in this Article VI, the percentage interest in the Common Elements appurtenant to each Unit and calculated under Section 5.01 shall change to be a percentage equal to one divided by the total number of Units within the Condominium as so expanded.

6.04 Effective Date of Expansion. The Condominium shall be deemed expanded when an amendment to this Declaration, executed by Declarant, is recorded in the Office of the Dane County Register of Deeds, which amendment shows the new percentage interests of the Unit Owners and the votes which each Unit Owner may cast in the Condominium as expanded, and when an amendment to the Condominium Plat is recorded as required in Section 703.26, Wisconsin Statutes. Declarant reserves the right to amend this Declaration, its Exhibits and the Condominium Plat, without any other consent or approval, for the purpose of effecting an expansion of the Condominium.

6.05 Effect of Expansion. Upon the recording of an amendment to the Declaration and Condominium Plat, each Unit Owner, by operation of law, shall have the percentage interests in the Common Elements, liabilities in the Common Expenses, rights to Common Surpluses (as defined below), and shall have the number of votes set forth in the Declaration amendment. Following any such expansion, the interest of any Mortgagee shall attach, by operation of law, to the new percentage interests in the Common Elements appurtenant to the Unit on which it has a lien. Declarant shall have an easement over, through and under the existing Common Elements to facilitate the expansion; provided, however, any damage to the

Common Elements because of Declarant's use of the easement shall be Declarant's responsibility.

ARTICLE VII

CONDOMINIUM ASSOCIATION

7.01 General. Following the conveyance of the first Unit to any person other than Declarant, all Unit Owners shall be entitled and required to be a member of an association of Unit Owners known as the "The Gardens at Swan Creek Condominium Owners Association, Inc." (the "Association"), which shall be responsible for carrying out the purposes of this Declaration, including exclusive management and control of the Common Elements and facilities of the Condominium, which may include the appointment and delegation of duties and responsibilities hereunder to a committee or subcommittee commissioned by the Association for that purpose. The Association shall be incorporated as a non-profit corporation under the laws of the State of Wisconsin. The powers and duties of the Association shall include those set forth in the Association's articles of incorporation (the "Articles") and bylaws (the "Bylaws"), the Condominium Ownership Act, this Declaration and Chapter 181, Wisconsin Statutes (the "Wisconsin Nonstock Corporation Law"). All Unit Owners, tenants of Units and all other persons and entities that in any manner use the Property or any part thereof shall abide by and be subject to all of the provisions of all rules and regulations of the Association (collectively, the "Rules and Regulations"), this Declaration, the Articles and Bylaws. The Association shall have the exclusive right to promulgate, and to delegate the right to promulgate, the Rules and Regulations from time to time and shall distribute to each Unit Owner, the updated version of such Rules and Regulations upon any amendment or modification to the Rules and Regulations. Any new rule or regulation or any revision to an existing rule and regulation shall become effective immediately upon distribution to the Unit Owners.

7.02 Declarant Control. Notwithstanding anything contained in this Declaration to the contrary, the Declarant shall totally govern the affairs of the Condominium and pay all expenses thereof until a Unit has been sold to any person other than the Declarant. The Declarant may exercise any rights granted to, or perform any obligations imposed upon, Declarant under this Declaration through its duly authorized agent. After a Unit has been sold to any person other than the Declarant, except as provided in Section 7.03, the Declarant shall have the right to appoint and remove the officers of the Association and to exercise any and all of the powers and responsibilities assigned to the Association and its officers by the Articles, Bylaws, the Condominium Ownership Act, this Declaration and the Wisconsin Nonstock Corporation Law from the date the first Unit of this

Condominium is conveyed by the Declarant to any person other than Declarant, until the earliest of: (a) ten (10) years from such date, unless the statute governing expansion of condominiums is amended to permit a longer period, in which event, such longer period shall apply; or (b) thirty (30) days after the conveyance of seventy-five percent (75%) of the Common Element interest to purchasers allowed under Article VI; or (c) thirty (30) days after the Declarant's election to waive its right of control.

7.03 Board of Directors. The affairs of the Association shall be governed by a board of directors. Prior to the conveyance of twenty-five percent (25%) of the Common Element interest of the Condominium to purchasers, the Association shall hold a meeting, and the Unit Owners other than the Declarant shall elect at least twenty-five percent (25%) of the directors on the board of directors. Prior to the conveyance of fifty percent (50%) of the Common Element interest of the condominium to purchasers, the Association shall hold a meeting, and the Unit Owners other than the Declarant shall elect at least thirty-three and one-third percent (33 1/3%) of the directors on the board of directors. For purposes of calculating the percentages set forth in Section 7.02 and this Section 7.03, the percentage of Common Element interest conveyed shall be calculated by dividing the number of Units conveyed by 174.

7.04 Maintenance and Repairs.

(a) Common Elements. The Association shall be responsible for the management and control of the Common Elements and Limited Common Elements and shall maintain the same in good, clean and attractive order and repair. In addition, the Association shall be responsible for providing and maintaining all Limited Common Elements, for snow plowing all sidewalks, driveways, private street, parking areas, the maintenance, repair and replacement of all outdoor amenities, including lawns, landscaping, sidewalks, bicycle paths, driveways, parking areas, the Community Garden (excepting garden plots which have been leased or licensed) and rain gardens.

(b) Units. Each Unit Owner shall be responsible for the maintenance, repair, and replacement of all other improvements constructed within the Unit (including the electrical, heating and air conditioning systems serving such Unit, and including any ducts, vents, wires, cables or conduits designed or used in connection with such electrical, heating or air conditioning systems), exterior patio areas or balconies appurtenant to the Unit, except to the extent any repair cost is paid by the Association's insurance policy described in Section 9.01. Each Unit shall at all times be

kept in good condition and repair. If any Unit or portion of a Unit for which a Unit Owner is responsible falls into disrepair so as to create a dangerous, unsafe, unsightly or unattractive condition, or a condition that results in damage to the Common Elements, the Association, upon fifteen (15) days' prior written notice to the Unit Owners of such Unit, shall have the right to correct such condition or to restore the Unit to its condition existing prior to the disrepair, or the damage or destruction if such was the cause of the disrepair, and to enter into such Unit for the purpose of doing so, and the Unit Owners of such Unit shall promptly reimburse the Association for the cost thereof. All amounts due for such work shall be paid within ten (10) days after receipt of written demand therefor, or the amounts may, at the option of the Association, be levied against the Unit as a Special Assessment under Section 7.07.

(c) Damage Caused by Unit Owners. To the extent (i) any cleaning, maintenance, repair or replacement of all or any part of any Common Elements or the Unit is required as a result of the negligent, reckless or intentional act or omission of any Unit Owner, tenant or occupant of a Unit, or (ii) any cleaning, maintenance, repair, replacement or restoration of all or any part of any Common Element or the Unit is required as a result of an alteration to a Unit by any Unit Owner, tenant or occupant of a Unit, or the removal of any such alteration (regardless of whether the alteration was approved by the Association or any committee thereof) or (iii) the Association is required to restore the Common Elements or the Unit following any alteration of a Common Element or Limited Common Element required by this Declaration, or the removal of any such alteration, the Unit Owner that committed the act or omission or that caused the alteration, or the Unit Owners of the Unit occupied by such tenant or occupant or responsible for such guest, contractor, agent or invitee, shall pay the cost of such cleaning, maintenance, repair, replacement and restoration.

7.05 Common Expenses. Any and all expenses incurred by the Association in connection with the management of the condominium, maintenance of the Community Garden to the extent such expenses are not covered by rents, maintenance of the Common Elements and other areas described in Section 7.04 and administration of the Association shall be deemed to be common expenses (the "Common Expenses"), including, without limitation, expenses incurred for: landscaping and lawn care; snow shoveling and plowing; improvements to the Common Elements; common grounds security lighting; municipal utility services provided to the Common Elements; trash collection; and maintenance and management salaries and wages.

7.06 General Assessments. The Association shall levy monthly general assessments (the "General Assessments") against the Unit Owners for the purpose of maintaining a fund from which Common Expenses may be paid. The General Assessments against the Unit Owners shall be assessed in proportion to their percentage interests in the Common Elements. General Assessments shall be due in advance on the first day of each month, or in such other manner as the Association may set forth in the Bylaws. Any General Assessment not paid when due shall bear interest until paid, as set forth in the Bylaws and, together with interest, collection costs, and reasonable attorneys' fees, shall constitute a lien on the Unit on which it is assessed if a statement of condominium lien is filed within two (2) years after the assessment becomes due as provided in the Condominium Ownership Act.

7.07 Special Assessments. The Association may, whenever necessary or appropriate, levy special assessments (the "Special Assessments") against the Unit Owners, or any of them, for deficiencies in the case of destruction or condemnation as set forth in Section 10.05 and Section 11.05; for defraying the cost of improvements to the Common Elements; for the collection of monies owed to the Association under any provision of this Declaration, including, without limitation, Sections 7.04 and Article XIV, or for any other purpose for which the Association may determine a Special Assessment is necessary or appropriate for the improvement or benefit of the Condominium. Special Assessments shall be paid at such time and in such manner as the Association may determine. Any Special Assessment or installment not paid when due shall bear interest until paid, as set forth in the Bylaws and, together with the interest, collection costs and reasonable attorneys' fees, shall constitute a lien on the Unit, on which it is assessed if a statement of condominium lien is filed within two (2) years after the Special Assessment becomes due as provided in the Condominium Ownership Act.

7.08 Common Surpluses. In the event that the surpluses of the Association (the "Common Surpluses") should be accumulated, other than surpluses in any construction fund as described in Section 10.06 and Section 11.06, such Common Surpluses may be credited against the Unit Owners' General Assessments in proportion to their respective percentage interests in the Common Elements or may be used for any other purpose as the Association may determine.

7.09 Certificate of Status. The Association shall, upon the written request of an owner, purchaser or Mortgagee of a Unit, issue a certificate of status of lien. Any such party may conclusively rely on the information set forth in such certificate.

7.10 Management Services. The Association shall have the right to enter into a management contract with a manager selected by the Association (the

"Manager") under which services may be provided to the Unit Owners to create a community environment for the entire Condominium community. Such services may include, without limitation, provision of activity programs, community lounges, and housekeeping services. Certain of such services may be available only on a fee-for-services basis by agreement between the Manager and individual Unit Owners. All amounts payable by the Association to the Manager under the management contract shall be chargeable to the Owners as a Common Expense. The management contract shall be subject to termination by the Association under Section 703.35 of the Wisconsin Statutes.

ARTICLE VIII

ALTERATIONS AND USE RESTRICTIONS

8.01 Unit Alterations.

(a) A Unit Owner may make improvements and alterations within its Unit; provided, however, that such improvements or alterations shall not impair the structural soundness or integrity or lessen the structural support of any portion of the Condominium, and does not impair any easement. A Unit Owner may not change the dimensions of or the exterior appearance of a Unit or any portion of the Common Elements without obtaining the prior written permission of the Association, which permission may be denied in the sole discretion of the Association. Any approved improvement or alteration, which changes the exterior dimensions of a Unit, must be evidenced by recording a modification to this Declaration and the Condominium Plat before it shall be effective and must comply with the then applicable legal requirements for such amendment or addendum. Furthermore, any approved improvements or alterations must be accomplished in accordance with applicable laws and regulations, must not unreasonably interfere with the use and enjoyment of the other Units and the Common Elements, and must not be in violation of any underlying mortgage, land contract or similar security interest.

(b) A Unit Owner acquiring an adjoining part of another Unit may remove all or any part of the intervening partition wall or create doorways or other apertures therein. This may be done even if the partition wall may, in whole or in part, be a Common Element, provided that those acts do not impair the structural integrity or lessen the support of any portion of the Condominium, do not reduce the value of the Condominium, and do not impair any easement. The creation of doorways or other apertures is not deemed an alteration of boundaries.

(c) If a Unit Owner acquires all of one or more adjoining Units, the Unit Owner's percentage interest in the Common Elements shall be equal to the number of Units so combined divided by the total number of Units, and as otherwise provided in Section 5.01 above.

8.02 Relocation of Boundaries.

(a) If the Unit Owners of adjoining Units desire to relocate their mutual boundary, the affected Unit Owners shall prepare and execute appropriate instruments.

(b) An amendment to the Declaration and an addendum to the Condominium Plat shall identify the Units and shall state that the boundaries between those Units are being relocated by agreement of the Unit Owners thereof. The amendment shall contain words of conveyance between those Unit Owners, and when recorded shall also be indexed in the name of the grantor and grantee, if applicable. If not stated, the prior allocation shall govern, until such time as the Unit Owners shall record an amendment to that effect with the Dane County Register of Deeds.

(c) Plats and plans showing the altered boundaries and the dimensions thereof between adjoining Units, and their identifying numbers or letters, shall be prepared. The plats and plans shall be certified as to their accuracy in compliance with Subsection 703.13(6) of the Wisconsin Statutes, by civil engineer, architect, or licensed land surveyor authorized to practice his or her profession in the State of Wisconsin.

(d) No boundaries of any Units may be relocated without the written consent of the Mortgagees of the Units affected.

(e) After appropriate instruments have been prepared and executed, those instruments shall become effective when the adjoining Unit Owners and the Association have executed them and they have been recorded with the Dane County Register of Deeds. The recording thereof shall be conclusive evidence that the relocation of boundaries did not violate the Condominium documents.

8.03 Separation of Units.

(a) A Unit may be separated into two (2) or more Units upon compliance with the provisions of this Section, provided that the

Association approves the separation of such Unit (which approval may be denied in the sole discretion of the Association). The Association's President, upon written application of a Unit Owner proposing the separation of a Unit (the "Separator") and after thirty (30) days' written notice to all of the Unit Owners shall promptly present the matter to the Association's Board of Directors. If approved, the President of the Association shall promptly prepare and execute appropriate instruments under this Section. An amendment to this Declaration and an addendum to the Condominium Plat shall assign a new identifying number to each new Unit created by the separation of a Unit, shall allocate to those Units, on a reasonable basis acceptable to the Separator and the other Unit Owners, all of the undivided interest in the Common Elements and right to use the applicable Limited Common Elements. The vote in the Association formerly appertaining to the separated Unit will be allocated among the resulting Units. For this purpose, a fractional vote shall be permitted. The amendment shall reflect a proportionate allocation to the new Unit(s) of the liability for Common Expenses and right to Common Surpluses formally appertaining to the separated Unit.

(b) Plats and plans showing the boundaries and dimensions separating the new Units together with their other boundaries and their new identifying numbers or letters shall be prepared. The plats and plans shall be certified as to their accuracy and compliance with Subsection 703.13(7), Wisconsin Statutes, by a civil engineer, architect, or licensed land surveyor authorized to practice his or her profession in the State of Wisconsin.

(c) No Unit may be separated without the written consent of the Mortgagees of the Unit.

(d) After appropriate instruments have been prepared and executed, they shall be delivered promptly to the Separator upon payment by it of all reasonable costs for their preparation. Those instruments are effective when the Association, the Separator and the new Unit Owners have executed them and they are recorded with the Dane County Register of Deeds. The recording of the instruments shall be conclusive evidence that the separation did not violate any restrictions or limitations specified by this Declaration and that any reallocations were reasonable.

8.04 Expenses. All expenses involved in any improvements, alterations boundary changes or Unit separations approved by the Association or permitted under this Article, whether or not completed, including all expenses to the Association, shall be borne by the Unit Owner or Unit Owners involved and may

be charged as a special assessment to the affected Units in accordance with Section 7.07.

8.05 Use and Restrictions on Use of Unit. Each Unit shall be used for single-family residential purposes and for no other purpose unless otherwise authorized by the Association prior to the commencement of such use. A Unit shall be deemed to be used for "single-family residential purposes" if it is occupied by no more than one family (defined to include persons related by birth, marriage or legal adoption) plus no more than two unrelated persons. No business, whether or not for profit, including, without limitation, any day care center, animal boarding business, products distributorship, manufacturing facility, sales office or professional practice, may be conducted from any Unit. The foregoing restrictions as to residence and use shall not, however, be construed in such a manner as to prohibit a Unit Owner from:

- (i) maintaining his or her personal professional library in his or her Unit;
- (ii) keeping his or her personal business or professional records or accounts in his or her Unit;
- (iii) handling his or her personal or business records or accounts in his or her Unit; or
- (iv) handling his or her personal business or professional telephone calls or correspondence from his or her Unit.

Nothing in this Section 8.05 shall authorize the maintaining of an office at which customers or clients customarily call and the same is prohibited.

8.06 Nuisances. No nuisances shall be allowed upon the Property, nor any use or practice that is unlawful or interferes with the peaceful possession and proper use of the Condominium by the Unit Owners or that would cause an increase in the premiums for insurance required to be maintained by the Association under Section 9.01. All parts of the Condominium shall be kept in a clean and sanitary condition, and no fire or other hazard shall be allowed to exist. No Unit Owner shall permit any use of its Unit or of the Common Elements that increases the cost of insuring the Condominium.

8.07 Lease of Units. Each Unit or any part thereof may be rented by written lease, provided that

(a) the term of any such lease shall not be less than four (4) months,

(b) the Unit Owners have obtained the prior written approval of the Association to the proposed tenant and the terms of the proposed lease,

(c) the lease contains a statement obligating all tenants to abide by this Declaration, the Articles, the Bylaws and the Rules and Regulations, providing that the lease is subject and subordinate to the same.

(d) the lease provides that any default arising out of the tenant's failure to abide by the Declaration, the Articles, the Bylaws and the Rules and Regulations shall be enforceable by the Association as a third-party beneficiary to the lease and that the Association shall have, in addition to all rights and remedies provided under the Declaration, the Articles, the Bylaws and the Rules and Regulations, the right to evict the tenant and/or terminate the lease should any such violation continue for a period of ten (10) days following delivery of written notice to the tenant specifying the violation.

The Association may withhold approval upon any reasonable basis, including, but not limited to: the failure of the lease terms to comply with all provisions of this Declaration, the Articles, the Bylaws and the Rules and Regulations; the past failure of the tenant or its guests to abide by all provisions of this Declaration, the Articles, the Bylaws and the Rules and Regulations; and the past use by the tenant or its invitees or guests of any part of the Condominium in a manner offensive or objectionable to the Association or other occupants of the Condominium by reason of noise, odors, vibrations, or nuisance.

During the term of any lease of all or any part of a Unit, each Unit Owner of such Unit shall remain liable for the compliance of the Unit, such Unit Owner and all tenants of the Unit with all provisions of this Declaration, the Bylaws and the Rules and Regulations of the Association, and shall be responsible for securing such compliance from the tenants of the Unit. The Association may require that a copy of each lease of all or any part of a Unit be filed with the Association. The restrictions against leasing contained in this Section 8.07 shall not apply to leases of the Units by the Declarant or leases of the Units to the Association.

8.08 Signs. No sign of any kind shall be displayed to the public view on any Unit without the written consent of the Association and, if Declarant owns at least one Unit, the Declarant. The Declarant reserves the right to erect signs, gates or other entryway features surrounded with landscaping at the entrances to the Condominium and to erect appropriate signage for the sales of Units.

8.09 Garbage and Refuse Disposal. No Unit shall be used or maintained as a dumping ground for rubbish, trash, garbage or waste. All clippings, rocks or earth must be in containers.

8.10 Storage. Outdoor storage of disabled vehicles or personal property shall not be permitted. No firewood or wood pile shall be kept outside a structure unless it is neatly stacked and screened from street view. No vehicles shall be parked on any yard at any time.

8.11 Pets. Pets are permitted in accordance with the current applicable Rules and Regulations.

8.12 Landscaping. Unit Owners may not plant any decorative plants, vegetables and shrubbery outside of their Unit without the prior written consent of the Association. All gardens kept by Unit Owners shall be kept in garden plots in the Community Garden.

ARTICLE IX

INSURANCE

9.01 Fire and Extended Loss Insurance. The board of directors of the Association shall, at its option, obtain and maintain fire, casualty, and special form insurance coverage for the Common Elements and for the Association's service equipment, supplies and personal property. Each Unit Owner shall obtain and maintain fire, casualty, and special form insurance coverage for the Unit and all improvements located therein for not less than the full replacement value thereof. Insurance coverage for the Common Elements shall be reviewed and adjusted by the board of directors of the Association from time to time to ensure that the required coverage is at all times provided. The insurance, if any, maintained by the Association shall be written on the Condominium's Common Elements in the name of the Association as insurance trustee for the individual Unit Owners in their respective percentage interests in the Common Elements, and may list each Unit Owner as an additional insured with respect to its Unit. The policy shall contain the standard mortgagee clause, which shall be endorsed to provide any proceeds shall be paid to the Association, as insurance trustee, for the use and benefit of any Mortgagee as its interest may appear. All premiums for such insurance shall be Common Expenses. In the event of damage to or destruction of all or part of the Condominium insured hereunder, the proceeds of the insurance shall be paid to the

Association, as insurance trustee, for the Unit Owners and the Mortgagees and distributed as provided in Article X.

9.02 Public Liability Insurance. The board of directors of the Association shall obtain and maintain a comprehensive liability insurance policy insuring the Association, its officers, directors, and the Unit Owners against any liability arising out of the maintenance, repair, ownership, or use of the Common Elements. Liability coverage shall be for at least \$1,000,000 per occurrence for personal injury and/or property damage or such higher limit as may be adopted from time to time by the Association. The insurance coverage shall be written on the Condominium in the name of the Association as insurance trustee for the Association, its directors and officers, and for the individual Unit Owners in their respective percentage interests in the Common Elements. Such insurance policy shall contain a "severability of interest" or cross-liability endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of the negligent acts of the Association or other Unit Owners. All premiums for such insurance shall be Common Expenses. Each Unit Owner shall have the right to insure its own Unit for personal benefit.

9.03 Fidelity Insurance. Subsequent to the sale by Declarant of the first Unit, the Association shall require or maintain fidelity coverage against dishonest acts by any person responsible for handling the funds belonging to or administered by the Association. The Association shall be named insured and the insurance shall be in an amount of not less than fifty percent (50%) of the Association's annual operating expenses and reserves. All premiums for such insurance shall be Common Expenses.

9.04 Mutual Waiver of Subrogation. Nothing in this Declaration shall be construed so as to authorize or permit any insurer of the Association or a Unit Owner to be subrogated to any right of the Association or a Unit Owner arising under this Declaration. The Association and each Unit Owner hereby release each other to the extent of any perils to be insured against by either of such parties under the terms of this Declaration or the Bylaws, whether or not such insurance has actually been secured, and to the extent of their respective insurance coverage for any loss or damage caused by any such casualty, even if such incidents shall be brought about by the fault or negligence of either party for whose acts, omissions or negligence the other party is responsible. All insurance policies to be provided under this Article by either the Association or a Unit Owner shall contain a provision that they are not invalidated by the foregoing waiver. Such waiver shall, however, cease to be effective if the existence thereof precludes either the Association or a Unit Owner from obtaining such policy.

9.05 Standards for All Insurance Policies. All insurance policies provided under this Article IX shall be written by companies duly qualified to do business in the State of Wisconsin, with a general policyholder's rating of at least "A" and a financial rating of at least Class VII, as rated in the latest edition of Best's Key Rating Guide, unless the board of directors of the Association determines by unanimous vote or unanimous written consent that any policy may be issued by a company having a different rating.

ARTICLE X

RECONSTRUCTION, REPAIR OR SALE IN THE EVENT OF DAMAGE OR DESTRUCTION

10.01 Determination to Reconstruct or Repair. If all or any part of the Common Elements become damaged or are destroyed by any cause, the damaged Common Elements shall be repaired or reconstructed even if the cost of such repair or reconstruction exceeds the available insurance proceeds by an amount of up to \$50,000 times the number of Units then making up the Condominium. Acceptance by a Unit Owner of a deed to a Unit shall be deemed to be consent to the authorization to the Association to so repair or reconstruct. If such authorization is challenged, whether through action taken at a meeting of Unit Owners or otherwise, the issue of whether to repair or reconstruct shall be put to a vote of all of the Unit Owners, and such repair or reconstruction shall be deemed approved if the votes appurtenant to any one Unit are cast in favor of such repair or reconstruction.

10.02 Plans and Specifications. Any reconstruction or repair shall, as far as is practicable, be made in accordance with the maps, plans, and specifications used in the original construction of the damaged Common Elements, unless (1) a majority of the first Mortgagees (one vote per mortgaged Unit) approve of the variance from such plans and specifications; and (2) the board of directors of the Association authorizes the variance in the case of reconstruction of or repair to the Common Elements. In the event that a variance is authorized from the maps, plans, and specifications contained in the Condominium Plat or this Declaration, an amendment shall be recorded by the Association setting forth such authorized variance.

10.03 Responsibility for Repair. In all cases after a casualty has occurred to the Common Elements, the Association has the responsibility of reconstruction and repair, and immediately shall obtain reliable and detailed estimates of the cost to rebuild or repair.

10.04 Insurance Proceeds and Construction Fund. Insurance proceeds held by the Association as trustee pursuant to Section 9.01 shall be disbursed by the

Association for the repair or reconstruction of the damaged Common Elements. The Association shall have no responsibility to repair, reconstruct, or replace any Unit or any improvements located within a Unit. Unit Owners and Mortgagees shall not be entitled to receive payment of any portion of the insurance proceeds unless there is a surplus of insurance proceeds after the damaged Property has been completely restored or repaired as set forth in Section 10.06.

10.05 Assessments For Deficiencies. If the proceeds of insurance are not sufficient to defray the costs of reconstruction and repair by the Association, a Special Assessment shall be made against the Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such assessments on account of damage to Common Elements shall be in proportion to each Unit Owner's percentage interest in the Common Elements. All assessed funds shall be held and disbursed by the Association as trustee for the Unit Owners and Mortgagees involved.

10.06 Surplus in Construction Funds. All insurance proceeds and Special Assessments held by the Association as trustee for the purpose of rebuilding or reconstructing any damage to the Common Elements or any Property taken by eminent domain are referred to herein as "Construction Funds." It shall be presumed that the first monies disbursed in payment of costs of reconstruction or repair are insurance proceeds. If there is a balance in the Construction Funds after payment of all costs of reconstruction or repair, such balance shall be divided among the Unit Owners according to their respective percentage interests in the Common Elements.

10.07 Damage or Destruction of Unit. Following any damage or destruction to any improvements located within any Unit, the Unit Owner shall repair and restore such Unit to its condition prior to the damage or destruction as soon as possible but in any case within two hundred seventy (270) days of the damage or destruction.

ARTICLE XI

CONDEMNATION

11.01 Allocation of Award. Any damages for a taking of all or part of the Condominium shall be awarded as follows:

- (a) Every Unit Owner shall be allocated the entire award for the taking of all or part of the respective Unit or any improvements located therein and for consequential damages to the Unit or improvements located therein.

(b) In the event no reconstruction is undertaken, any award for the taking of Common Elements shall be allocated to all Unit Owners in proportion to their respective percentage interest in the Common Elements.

11.02 Determination to Reconstruct Common Elements. Following the taking of all or part of the Common Elements, the Common Elements shall be restored or reconstructed.

11.03 Plans and Specifications for Common Elements. Any reconstruction shall, as far as is practicable, be made in accordance with the maps, plans and specifications used in the original construction of the portion unless seventy-five percent (75%) of the Unit Owners and a majority of the first Mortgagees (one vote per mortgaged Unit) shall authorize a variance from such plans and specifications. In the event that a variance is authorized from the maps, plans or specifications contained in the Condominium Plat or this Declaration, an amendment shall be recorded by the Association setting forth such authorized variances.

11.04 Responsibility for Reconstruction. In all cases after a taking of all or part of the Common Elements, the responsibility for restoration and reconstruction shall be that of the Association and it shall immediately obtain reliable and detailed estimates of the cost to rebuild.

11.05 Assessments for Deficiencies. If the condemnation award for the taking of the Common Elements is not sufficient to defray the costs of reconstruction by the Association, Special Assessments shall be made against the Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such Special Assessments shall be in proportion to each Unit Owner's respective percentage interest in the Common Elements and shall constitute a Common Expense.

11.06 Surplus in Construction Fund. It shall be presumed that the first monies disbursed in payment of costs of reconstruction or restoration shall be from the award for taking. If there is a surplus of Construction Funds after payment of all costs of construction, such balance shall be divided among all Unit Owners in proportion to their respective percentage interests in the Common Elements.

11.07 Percentage Interests Following Taking. Following the taking of all or any part of any Unit, the percentage interest in the Common Elements appurtenant to any Unit shall be equitably adjusted to reflect the respective relative values of the remaining Units (or portions thereof) to all of the Units, determined without regard to the value of any improvements located within the Units. The Association shall promptly prepare and record an amendment to the Declaration reflecting the new percentage interests appurtenant to the Units.

ARTICLE XII

MORTGAGEES

12.01 Notice. Any holder of a recorded mortgage or any vendor under a recorded land contract encumbering a Unit (the "Mortgagee") that has so requested of the Association in a writing received by the Association's agent for service of process shall be entitled to receive notice of the following matters:

- (a) The call of any meeting of the membership or the board of directors of the Association to be held for the purpose of considering any proposed amendment to this Declaration, the Articles or the Bylaws.
- (b) Any default under, any failure to comply with, or any violation of, any of the provisions of this Declaration, the Articles or Bylaws or any rules and regulations.
- (c) Any physical damage to the Common Elements in an amount exceeding Twenty Thousand Dollars (\$20,000).

12.02 Amendment of Provisions Affecting Mortgagees. Notwithstanding the provisions of Article XIII of this Declaration, neither Section 12.01 nor any Section of this Declaration requiring the approval of any Mortgagee to any action shall be amended unless all Mortgagees have given their prior written approval.

12.03 Owners of Unmortgaged Units. Whenever any provision contained in this Declaration requires the consent or approval (whether by vote or in writing) of a stated number or percentage of Mortgagees to any decision, each Unit Owner of any unmortgaged Unit shall be considered a "Mortgagee" as well as a "Unit Owner" for purposes of such provision.

12.04 Condominium Liens. Any Mortgagee who obtains title to a Unit under the remedies provided in the mortgage or land contract against the Unit or through foreclosure shall not be liable for more than six (6) months of the Unit's

unpaid dues and assessments accrued before the date on which the holder acquired title.

ARTICLE XIII

AMENDMENT

Except as otherwise provided by the Condominium Ownership Act with respect to termination of the Condominium form of ownership, or as otherwise provided in this Declaration, this Declaration may be amended with the written consent of not less than the number of Unit Owners who together hold at least seventy-five percent (75%) of the total voting interests held by all Unit Owners. No Unit Owner's consent shall be effective without the consent of the first mortgagee of such Unit. So long as the Declarant owns any Unit, the consent in writing of the Declarant, its successors or assigns, shall also be required. No amendment shall alter or abrogate the rights of Declarant as contained in this Declaration. Copies of amendments shall be certified by the president and secretary of the Association in a form suitable for recording. A copy of the amendment shall be recorded with the Register of Deeds for Dane County, and a copy of the amendment shall also be mailed or personally delivered to each Unit Owner at its address on file with the Association. Until the initial conveyance of all Units, this Declaration may be amended by the Declarant alone for purposes of clarification and correction of errors and omissions and for expansion of the Condominium as provided in Article VI.

ARTICLE XIV

REMEDIES

The Association shall have the sole right to enforce the provisions hereof or any of its orders by proceedings at law or in equity against any person or persons violating or attempting to violate any provision of the Declaration, either to restrain or cure the violation or to recover damages, or both, for a period which shall include thirty (30) days from the date of the filing with the Association of a petition by any person who shall be a Unit Owner subject to this Declaration on the date of the filing, petitioning the Association to redress the violation or attempted violation of any of the provisions of this Declaration by any other persons. Liability among multiple owners of a Unit shall be joint and several. (Nothing herein shall be deemed to limit the rights of the City of Fitchburg or the County of Dane to enforce any zoning codes, ordinances, regulations or other requirements which may be identical or similar to the requirements of this Declaration.) Such period of thirty (30) days shall be considered to be a period for the consideration of the petition by the Association and in the event the Association denies or fails to act upon the

petition to the satisfaction of the petitioner within the thirty (30) day period, thereafter petitioner shall have the right to enforce the provisions hereof (except for the collection of charges and assessments under Article VII), to the extent that he or she shall so have petitioned, by proceedings at law or in equity against any person or persons violating or attempting to violate the provisions of this Declaration, either to restrain the violation or to recover damages, or both, provided, however, that any such person shall be a Unit Owner and commence such proceedings against such other person or persons within a period of sixty (60) days from (i) the date of the Association's denial of such petition, or (ii) the passage of the aforementioned thirty (30) day period for consideration of the petition by the Association. The Association or the petitioning Unit Owner(s), as the case may be, shall have the right to recover court costs and reasonable attorneys' fees in any successful action brought against another Unit Owner to enforce, or recover damages for a violation of, this Declaration. Any damages collected by the Association shall be distributed, first, to pay for all costs of enforcement, and secondly to the owners of the Units damaged by the violation pro rata. Notwithstanding the foregoing, if any Unit Owner fails to comply with the terms and conditions of this Declaration, and such failure continues beyond any applicable cure period, the Association shall have the right to cure on behalf of the Unit Owner and such Unit Owner shall promptly reimburse the Association for the cost thereof within ten (10) days after receipt of written demand therefor. Alternatively, the Association may, at the option of the Association, levy such amounts against the Unit as a Special Assessment under Article VII.

ARTICLE XV

GENERAL

15.01 Utility Easements. The Declarant hereby reserves for the Association acting by and in the discretion of its board of directors, the rights to grant to the City of Fitchburg and County of Dane or public or semi-public utility companies, easements and rights-of-way for the erection, construction and maintenance of all poles, wires, pipes and conduits for the transmission of electricity, gas, water, telephone and for other purposes, for sewers, stormwater drains, gas mains, water pipes and mains, and similar services and for performing any public or quasi-public utility function that the board of directors may deem fit and proper for the improvement and benefit of the Condominium. Such easements and rights-of-way shall be confined, so far as possible in underground pipes or other conduits, with the necessary rights of ingress and egress and with the rights to do whatever may be necessary to carry out the purposes for which the easement is created.

15.02 Right of Entry. By acceptance of a Condominium Deed, each Unit Owner shall have granted a right of entry and access to its Unit to the Association to

correct any condition originating in its Unit and threatening another Unit or the Common Elements, to install, alter or repair mechanical or electrical services or other Common Elements in its Unit or elsewhere in the Condominium, and to maintain and repair Common Elements and other areas as described in Section 7.04. Such entry shall be made with prior notice to the Unit Owners, and shall be scheduled for a time reasonably convenient to the Unit Owners, except in the case of an emergency when injury or property damage will result in delayed entry. Such entry shall be done with as little inconvenience to the Unit Owners as practical, and any damage caused thereby shall be repaired by the Association and treated as a Common Expense, except as allocable to an individual Unit or Units for cause in the discretion of the board of directors.

15.03 Notices. All notices and other documents required to be given by this Declaration or by the Bylaws of the Association shall be sufficient if given to one (1) registered owner of a Unit regardless of the number of owners who have an interest therein. Notices and other documents to be served upon Declarant shall be given to the agent for service of process specified in Section 16.06. All owners shall provide the secretary of the Association with an address for the mailing or service of any notice or other documents and the secretary shall be deemed to have discharged his or her duty with respect to the giving of notice by mailing it or having it delivered personally to such address as is on file with him or her.

15.04 Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or unenforceability of the remaining portion of said provision or of any other provision hereof.

15.05 Declarant Access During Construction of Improvements. During any period of construction of Buildings and other improvements on the Property by the Declarant, the Declarant and its contractors, and subcontractors, and their respective agents and employees, shall have access to all Common Elements as may be required in connection with said construction and shall have easements for the installation and construction of Buildings, improvements, utilities, driveways, parking areas, landscaping and other repairing or servicing of all or any part of the Condominium or the expanded Condominium.

15.06 Agent for Service of Process. The Declarant shall be the agent for service of process in any action against the Association or brought under the Condominium Ownership Act. Service may be made upon the Declarant by serving Phillip A. Sveum, c/o Sveum Enterprises, Ltd., 2927 Fish Hatchery Road, Fitchburg, Wisconsin 53711; provided, however, that the board of directors of the Association may at any time by duly-adopted resolution designate a successor resident agent for

service of process. The designation of such person as agent shall become effective upon the execution and filing of a statement of change of registered agent with the Department of Financial Institutions as provided in the Condominium Ownership Act and the Wisconsin Nonstock Corporation Law.

15.07 Assignment of Declarant's Rights. The rights granted to the party named as "Declarant" in this Declaration may be assigned by a written, recorded instrument to any other party who assumes such rights, and, upon the recording of any such instrument, such assignee shall become, and succeed to all rights and powers granted to, "Declarant" under this Declaration.

15.08 Conflicts. In the event a conflict exists among any provisions of this Declaration, the Articles, the Bylaws and the Rules and Regulations, the Declaration shall prevail over the Articles, Bylaws and Rules and Regulations; the Articles shall prevail over the Bylaws and the Rules and Regulations; and the Bylaws shall prevail over the Rules and Regulations.

[Execution Page Follows]

003019

EXHIBIT A

Lot One Hundred Eight (108), First Addition to Swan Creek of Nine Springs, in the City of Fitchburg, Dane County, Wisconsin.

003020

EXHIBIT B

[Condominium Plat Showing First Phase]

Note: please be advised that the document grantor hereby directs viewers to ignore the printed text material on this map. Only spatial relationships of the illustrations on the map are being presented for your information.

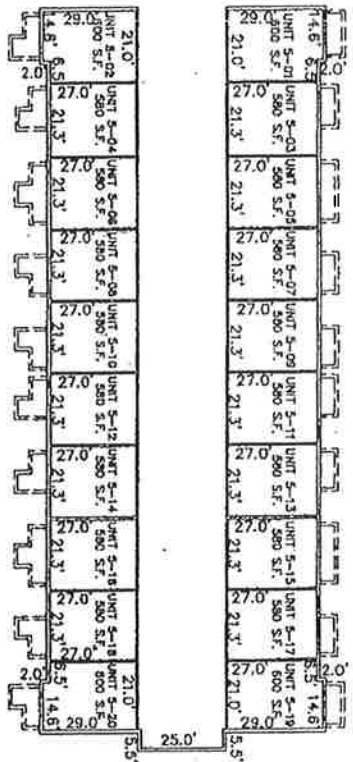
Callie J. Hugin-Kasmussen 9/11/03
 Grantor's Regent: Julie Hugin-Kasmussen

003022

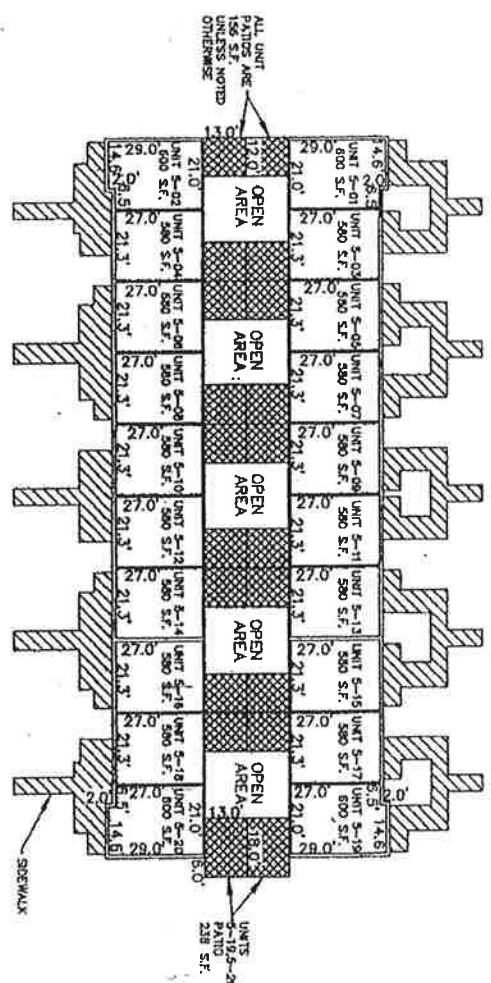
MAYO Corporation
 ENGINEERS SURVEYORS ARCHITECTS PLANNERS
 500 GRAND CAYTON DRIVE MADISON, WI 53719-1044
 PHONE: (608) 833-0828 FAX: (608) 833-0746
 E-MAIL: projec@mayoengineers.com



ALL OF LOT 108, FIRST ADDITION TO SWAN CREEK OF NINE SPRINGS,
 CITY OF FITCHBURG, DANE COUNTY, WISCONSIN



BASEMENT / FOUNDATION PLAN (TWENTY UNIT BUILDING)



FIRST FLOOR PLAN (TWENTY UNIT BUILDING)

CONDOMINIUM BOUNDARY DESCRIPTION
 ALL OF LOT 108, FIRST ADDITION TO SWAN CREEK OF NINE SPRINGS, AS RECORDED IN VOLUME 58-078 OF THE RECORDS OF THE COUNTY REGISTER, DANE COUNTY, WI, ALSO BEING LOCATED IN PART OF THE NORTH EAST AND NORTH WEST QUARTERS OF THE SOUTH WEST QUARTER, SECTION 11, TOW. 19E, R9E, CITY OF FITCHBURG, DANE COUNTY, WISCONSIN.

AREA RESERVED FOR EXPANSION DESCRIPTION
 ALL OF LOT 108, FIRST ADDITION TO SWAN CREEK OF NINE SPRINGS, AS RECORDED IN VOLUME 58-078 OF THE RECORDS OF THE COUNTY REGISTER, DANE COUNTY, WI, ALSO BEING LOCATED IN PART OF THE NORTH EAST AND NORTH WEST QUARTERS OF THE SOUTH WEST QUARTER, SECTION 11, TOW. 19E, CITY OF FITCHBURG, DANE COUNTY, WISCONSIN.

- LEGEND AND NOTES**
- ☐ LIMITED COMMON ELEMENTS
 - ▨ PRIVATE DECKS (ALSO LIMITED COMMON ELEMENTS)
 - 1) EVERYTHING OTHER THAN UNITS ARE COMMON ELEMENTS.
 - 2) WALL DIMENSIONS OF BUILDING ARE TAKEN FROM ARCHITECTURAL PLANS AND ARE ROUNDED TO THE NEAREST TENTH OF A FOOT.
 - 3) UNIT AREAS ARE APPROXIMATE.
 - 4) DRIVEWAYS AND SIDEWALKS SHOWN HERE ARE FOR ILLUSTRATIVE PURPOSES ONLY. EXACT SIZE AND LOCATIONS ARE AS CONSTRUCTED.
 - 5) UNITS SHOWN HERE ARE TYPICAL FOR THE TWENTY UNIT BUILDING. SEE SHEET ONE OF FIVE FOR UNIT LOCATION.

PLOT DATE = 09-03-03
 LAYOUT = PLOT-SH12
 M-VL-02-02-CAD100-1.DWG

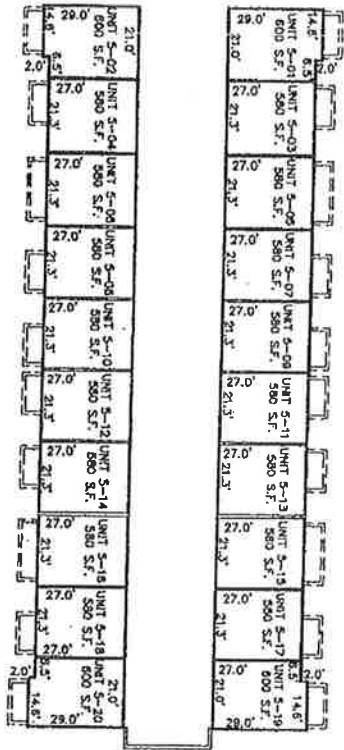
PL-08-02A
 SHEET 2 OF 5

Note: please be advised that the document grantor hereby directs viewers to ignore the printed text material on this map. Only spatial relationships of the illustrations on the map are being presented for your information. *Callie Johnson-Reasmussen* 9/11/03
 Grantor's Agent: Julie Tjugen-Reasmussen

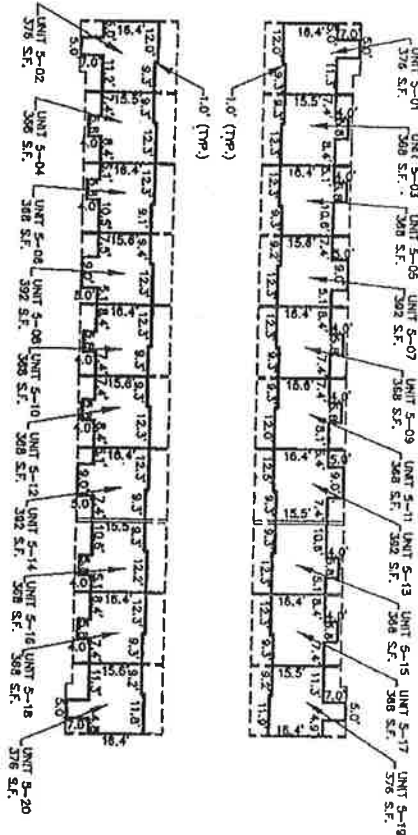
THE GARDENS AT SWAN CREEK, A CONDOMINIUM, A CONDOMINIUM PLAT

ALL OF LOT 108, FIRST ADDITION TO SWAN CREEK OF NINE SPRINGS,
 CITY OF FITCHBURG, DANE COUNTY, WISCONSIN

MAYO corporation
 ENGINEERS SURVEYORS ARCHITECTS PLANNERS
 400 GRAND CENTRAL AVENUE, WISCONSIN, WI 53778-1044
 PHONE: (608) 833-8526 FAX: (608) 833-0744
 E-Mail: mproject@mayocorp.com



SECOND FLOOR PLAN (TWENTY UNIT BUILDING)



THIRD FLOOR (LOFT) PLAN (TWENTY UNIT BUILDING)

- NOTES**
- 1) EVERYTHING OTHER THAN UNITS ARE COMMON ELEMENTS
 - 2) WALL DIMENSIONS OF BUILDING ARE TAKEN FROM ARCHITECTURAL PLANS AND ARE ROUNDED TO THE NEAREST TENTH OF A FOOT.
 - 3) UNIT AREAS ARE APPROXIMATE.
 - 4) UNITS SHOWN HERE ARE TYPICAL FOR THE TWENTY UNIT BUILDING. SEE SHEET ONE OF FIVE FOR UNIT LOCATIONS.

PLAT DATE = 09-08-03
 PLAT VIEW FILED = 09-11-03
 IN FILE = 02-02760000-1.DWG

Note: please be advised that the document grantor hereby directs viewers to ignore the printed text material on this map. Only spatial relationships of the illustrations on the map are being presented for your information.

Julie Tugnum-Resnussen
 Grantor's Agent: Julie Tugnum-Resnussen
 9/11/03

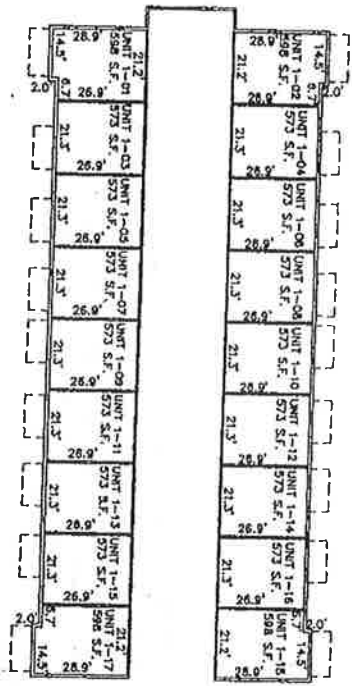
003024

MAYO corporation
 ENGINEERS SURVEYORS ARCHITECTS PLANNERS
 200 SWAN CANYON DRIVE, WATSON, WI 53719-1514
 PHONE: (608) 833-0822 FAX: (608) 833-0744
 E-MAIL: mayco@mayocorp.com

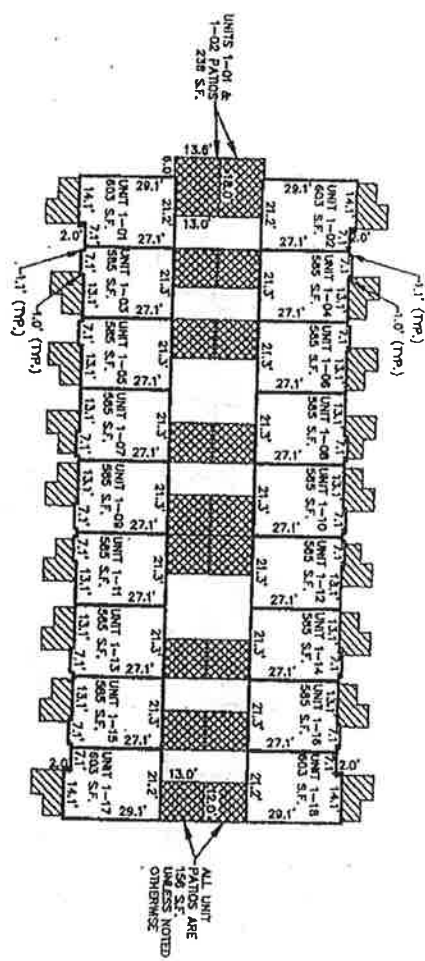


THE GARDENS AT SWAN CREEK, A CONDOMINIUM, A CONDOMINIUM PLAT

ALL OF LOT 108, FIRST ADDITION TO SWAN CREEK OF NINE SPRINGS,
 CITY OF FITCHBURG, DANE COUNTY, WISCONSIN



BASEMENT AND FOUNDATION PLAN (EIGHTEEN UNIT BUILDING)



FIRST FLOOR PLAN (EIGHTEEN UNIT BUILDING)

- LEGEND AND NOTES:
- ▨ LIMITED COMMON ELEMENTS
 - ▩ PATIOS (ALSO LIMITED COMMON ELEMENT)
 - 1) EVERYTHING OTHER THAN UNITS ARE COMMON ELEMENTS
 - 2) WALL DIMENSIONS OF BUILDING ARE TAKEN FROM ARCHITECTURAL PLANS AND ARE ROUNDED TO THE NEAREST TENTH OF A FOOT.
 - 3) UNIT AREAS ARE APPROXIMATE.
 - 4) PATIOS AND SIDEWALKS SHOWN HERE ARE FOR ILLUSTRATION PURPOSES ONLY. EXACT SIZE AND LOCATIONS ARE AS CONSTRUCTED.
 - 5) UNITS SHOWN HERE ARE TYPICAL FOR THE ENTIRE UNIT BUILDING. NUMBERS ONE THRU FOUR. SEE SHEET ONE OF FIVE FOR UNIT LOCATION.

1 DATE = 09-01-03
 1 VERN FLOT-SH14
 1-02-02\090909-1.DWG

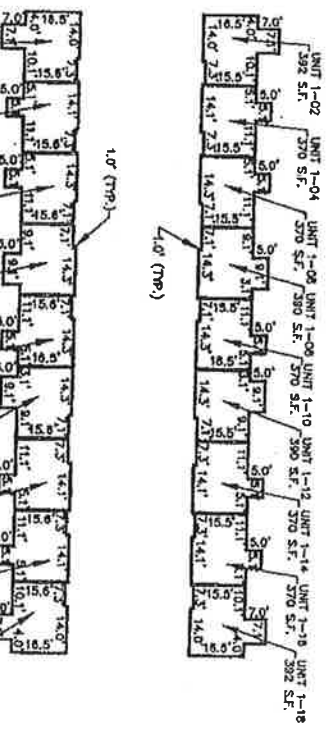
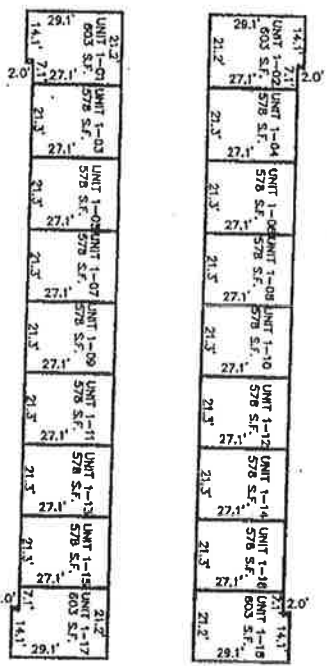
F-05-03a
 SHEET 4 OF 5

Note: please be advised that the document grantor hereby disavows to ignore the printed text material on this map. Only spatial relationships on the illustrations on the map are being presented for your information.

Julie Tjym-Rasmussen 9/11/03
 Grantor's Agent: Julie Tjym-Rasmussen

THE GARDENS AT SWAN CREEK, A CONDOMINIUM, A CONDOMINIUM PLAT
 ALL OF LOT 108, FIRST ADDITION TO SWAN CREEK OF NINE SPRINGS,
 CITY OF FITCHBURG, DANE COUNTY, WISCONSIN

MAYO corporation
 ENGINEERS SURVEYORS ARCHITECTS PLANNERS
 600 GRAND CANYON DRIVE, MADISON, WISCONSIN 53706
 PHONE: (608) 833-0828 FAX: (608) 833-0746
 E-MAIL: mayo@mayoengineers.com



SECOND FLOOR PLAN (EIGHTEEN UNIT BUILDING)
SURVEYOR'S CERTIFICATE

I, Richard S. Lawrence, Registered Land Surveyor, No. 2364, hereby certify that in full compliance with the provisions of Chapter 703 of the Wisconsin Statutes, I have caused to be prepared and under the direction of Fitchburg Land, LLC, owner, the plat shown herein to be a correct representation of the condominium described and the identification and location of each unit and the common elements as delineated from the plat.

Dated this 3rd day of SEPTEMBER 2003
 Signed: *Richard S. Lawrence*
 Richard S. Lawrence, RLS 2364



THIRD FLOOR PLAN (EIGHTEEN UNIT BUILDING)

- NOTES**
- 1) EVERYTHING OTHER THAN UNITS ARE COMMON ELEMENTS.
 - 2) WALL DIMENSIONS OF BUILDING ARE TAKEN FROM MEASURED TERN OF A FOOT.
 - 3) UNIT AREAS ARE APPROXIMATE.
 - 4) UNITS SHOWN HERE ARE TYPICAL FOR THE EIGHTEEN UNIT BUILDINGS, NUMBERS ONE THRU FOUR. SEE SHEET ONE OF FIVE FOR UNIT LOCATION.

LOT DATE = 08-03-03
 LOT VIEW: PLOT-5875
 VLS-02-02-DANCE-10W8

F1-08-02a
 SHEET 3 OF 3

003026

EXHIBIT C

Expansion Area

Lot One Hundred Nine (109), First Addition to Swan Creek of Nine Springs, in the City of Fitchburg, Dane County, Wisconsin.

DOCUMENT #
3831912

10/23/2003 01:14:44PM

Trans. Fee:
Exempt #:

Rec. Fee: 17.00
Pages: 4

Document No.

**FIRST AMENDMENT TO THE DECLARATION OF
CONDOMINIUM FOR THE GARDENS AT SWAN
CREEK, A CONDOMINIUM**

001588

Return to:
Jesse S. Ishikawa
Reinhart Boerner Van Deuren s.c.
P.O. Box 2018
Madison, WI 53701-2018

225-0609-113-0100-2

Parcel Number

**FIRST AMENDMENT TO THE DECLARATION OF CONDOMINIUM FOR
THE GARDENS AT SWAN CREEK, A CONDOMINIUM**

THIS AMENDMENT (the "Amendment") is executed as of the 20th day of October, 2003, by FITCHBURG LANDS, LLC, a Wisconsin limited liability company (the "Declarant").

RECITALS:

A. A Declaration of a Condominium dated September 12, 2003 was recorded with the Dane County Register of Deeds on October 8, 2003 as Document No. 3824929 (the "Declaration") creating The Gardens at Swan Creek, a Condominium (the "Condominium"), creating Units 1-01 through 1-18, inclusive, 2-01 through 2-18, inclusive, 3-01 through 3-18, inclusive, 4-01 through 4-18, inclusive, and 5-01 through 5-20, inclusive, of said condominium.

B. The undersigned Declarant, being the owner of more than 75% of the total voting interests held by all Unit Owners, desires, pursuant to Article XIII of the Declaration, to amend the Declaration in accordance with the terms of this Amendment.

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NOW THEREFORE, the undersigned Declarant does hereby amend the Condominium as follows:

1. Section 10.01 of the Declaration is hereby amended to read, in its entirety, as follows:

Section 10.01 Determination to Reconstruct or Repair. If all or any part of the Common Elements become damaged or are destroyed by any cause, the damaged Common Elements shall be repaired or reconstructed if the cost of such repair or reconstruction exceeds the available insurance proceeds by an amount of up to \$50,000 times the number of Units then making up the Condominium. Acceptance by a Unit Owner of a deed to a Unit shall be deemed to be consent to the authorization to the Association to so repair or reconstruct under such circumstances. If the cost of repair or reconstruction exceeds the available insurance proceeds by an amount exceeding \$50,000 times the number of Units then making up the Condominium, then the Condominium may be subject to partition as provided in the Wisconsin Condominium Ownership Act.

2. Terms that are capitalized but not defined in this Amendment shall have the definitions assigned to such terms under the Declaration.

3. Except as modified hereby, all remaining terms and conditions of the Declaration are hereby ratified and shall remain in full force and effect.

IN WITNESS WHEREOF, Declarant has executed this Amendment as of the day and year first above written.

DECLARANT:

FITCHBURG LANDS, LLC

By: Sveum Enterprises, Ltd., its Manager

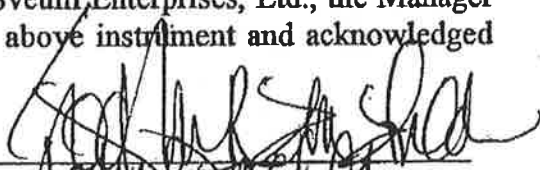
By:


Phillip A. Sveum, President

[ACKNOWLEDGMENT ON FOLLOWING PAGE]

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Personally came before me this 20th day of October, 2003, Phillip A. Sveum, known to me to be the President of Sveum Enterprises, Ltd., the Manager of Fitchburg Lands, LLC, who executed the above instrument and acknowledged the same.


Name: Jody M. Ramsfield
Notary Public, State of Wisconsin
My Commission: 11/24/04



