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Register

# DECLARATION OF CONDOMINIUM

# FOR

# WEST MEADOWS CONDOMINIUM

THIS DECLARATION is made pursuant to the Condominium Ownership Act, Chapter 703, Wis. Stats., this 21st day of July, 1982, by J.J.R. ASSOCIATES, a Wisconsin partnership, consisting of JOSEPH A. BIWAN, JOHN H. ZELM and RANDALL C. KATH, (hereinafter referred to as "Declarant").

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## DEFINITIONS

1.1 "Act" shall mean the Condominium Ownership Act of the State of Wisconsin, Chapter 703, Wis. Stats., now in effect and as it may be hereafter amended.

1.2 "Association" shall mean the WEST MEADOWS CONDOMINIUM OWNERS' ASSOCIATION, INC., a non-stock, non-profit corporation which is comprised of all unit owners acting as a group in accordance with the Act, this Declaration, the Articles and the Bylaws, and which shall be administered and operated by a Board of Directors.

1.3 "Articles" shall mean the articles of incorporation for WEST MEADOWS CONDOMINIUM OWNERS' ASSOCIATION, INC., a non-stock, non-profit corporation organized under Chapters 703 and 181 of the Wisconsin Statutes.

1.4 "Board" shall mean the Board of Directors of the Association.

1.5 "Bylaws" shall mean the Bylaws of the Association.

1.6 "Common Areas," "Common Areas and Facilities," and "Common Elements" shall all mean the entirety of all lands, structures and improvements of whatever kind or nature (excluding the units) which are located on, comprise a part of, or are appurtenant to the property subject to this Declaration. All the common elements shall be owned by all the living unit owners as tenants in common under the Act with each living unit having a 1/8th interest therein and shall include all limited common elements.

1.7 "Condominium Documents" shall mean this Declaration, the Articles, the Bylaws and any Rules and Regulations adopted by the Board from time to time, as any of the foregoing may be amended from time to time.

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1.8 "Declaration" shall mean this Declaration of Condominium, as amended from time to time, together with any and all supplementary declarations which may be recorded.

1.9 "Garage Unit" shall mean a part of the property subject to this Declaration which is intended for the indoor storage of automobiles.

1.10 "Declarant" shall mean J.J.R. ASSOCIATES, a Wisconsin partnership, consisting of JOSEPH A. BIWAN, JOHN H. ZELM, and RANDALL C. KATH.

1.11 "Improvements" shall mean all buildings, fixtures, roads, driveways, parking areas, fences, plants, lawns, gardens, landscaping and all structures, recreational areas, and other facilities or items of any kind located on the property (excluding the units).

1.12 "Limited Common Elements" shall be those common elements assigned to each unit, which are reserved for the exclusive use of the unit and the occupants of the unit.

1.13 "Owner" or "Unit Owner" shall mean the fee simple owner(s), or owner of a vendee's interest under a land contract, of record title to the unit, including: a) Declarant; and b) all joint owners of a unit, who shall be treated collectively as one unit owner regardless of the type of tenancy or estate; and c) all successors and assigns of such owner or joint owner.

1.14 "Joint Owner" shall mean an owner of record of any partial or shared legal ownership interest in a unit, regardless of whether held jointly, in common, or in some other form of tenancy or estate, together with all personal representatives, successors and assigns.

1.15 "Living Unit" shall mean a part of the property subject to this Declaration intended for independent use and enjoyment as a single-family residential dwelling unit, consisting of one or more cubicles of air at one or more levels of space, having the following boundaries:

(a) upper boundaries - shall be the plane of the under surfaces of the chords of the roof trusses or of the floor joists which serve as ceiling joists, such that all drywall, ceiling tile and other ceiling materials shall constitute a part of the unit;

(b) lower boundaries - shall be the plane of the upper surfaces of the floor joists or other structural supports for subflooring or other prefinished flooring such that all subflooring and other flooring materials shall constitute a part of the unit;

(c) vertical boundaries - shall be the plane of the interior surfaces of the wall studs of exterior walls of the unit and the plane of the outside faces of doors and windows for

the unit such that all drywall, panelling and wall coverings and all doors, door casements, interior door framing, windows and window glass shall constitute a part of the unit.

1.16 "Manager" shall mean any professional managing agent, whether an individual, firm, or corporation, who may be appointed by Declarant or retained by the Association to manage the common elements and the operation of the Association.

1.17 "May" means something which is permissible or can be done without any obligation that it can be done (whether expressed or implied); and "shall" means something which must be done.

1.18 The "percentage of ownership interest" shall be appurtenant to each living unit and shall include an undivided interest in all common and limited common elements, all in the percentage of a 1/32nd interest for each such living unit and an undivided 1/32nd interest in all assets and liabilities of the Association.

1.19 "Property" shall mean the units, the real estate described in Section 2.3 and all improvements thereon, and all water, mineral, air and other rights, title, easements and interests appurtenant to the real estate.

1.20 "Rules and Regulations" shall mean those rules and regulations as may be adopted by the Board from time to time in accordance with this Declaration and the Bylaws.

1.21 A "Section" means a section of this Declaration (e.g. 1.18) and includes and refers to all subsections (e.g. (a)), paragraphs (e.g. (1)) and subparagraphs (e.g. (i)) unless a particular subsection, paragraph or subparagraph is specified.

1.22 "Unit" shall include both living units and garage units.

## STATEMENT OF DECLARATION

### 2.1 PURPOSE

The purpose of this Declaration is to submit the property to the condominium form of use and ownership as provided under the Condominium Ownership Act of the State of Wisconsin and this Declaration.

### 2.2 DECLARATION

(a) The Declarant hereby declares that J.J.R. ASSOCIATES, a Wisconsin partnership, consisting of JOSEPH A. BIWAN, JOHN H. ZELM and RANDALL C. KATH, is the owner of the property which is hereby submitted to the condominium form of use and ownership pursuant to the Act, this Declaration and the other condominium documents.

(b) The property and all parts thereof shall be held, conveyed, transferred, encumbered, leased, assigned, improved, occupied and used subject to the terms, conditions and provisions of this Declaration, the other condominium documents and the Act (to the extent not contrary to the condominium documents), all of which shall be deemed to be covenants running with the land and shall bind the Declarant and all parties now or hereafter having any legal or equitable interest in the property or any portions thereof whether as owners, joint owners, lessees, users, mortgagees, encumbrancers or otherwise.

2.3 LEGAL DESCRIPTION OF PROPERTY

The property which is hereby submitted to the Act and this Declaration is certain real estate located in the Town of Sheboygan, County of Sheboygan, Wisconsin, and legally described as:

> Part of the Southeast 1/4 Southwest 1/4 of Section 16, Town 15 North, Range 23 East, Town of Sheboygan, Sheboygan County, Wisconsin, described as follows:
>
> Commencing at the South Quarter corner of Section 16, Town 15 North, Range 23 East, thence North 0° 02' 42" Northwest 499.20 feet, thence South 88° 14' 12" West 263.64 feet to the true point of beginning, thence continuing South 88° 14' 12" West 133.38 feet, thence North 0° 02' 42" West 155.34 feet, thence North 88° 15' 25" East 133.38 feet, thence South 0° 02' 42" East 155.29 feet to the point of beginning, being a tract containing 0.48 acres of land.

Such real estate is also described and shown on the plat attached hereto as Exhibit "A."

2.4 NAME

The property, including all units and improvements, shall be known as "WEST MEADOWS CONDOMINIUM."

2.5 ADDRESS

The address of said condominium is 3228-3234 North Taylor Dr. Sheboygan, Wi.

DESCRIPTION OF BUILDING AND UNITS

3.1 DESCRIPTION OF BUILDING

There shall be one 2-story building constructed on the real estate containing eight 2-bedroom, 1-1/2 bath living units.

One storage locker shall be appurtenant to each unit. The building is constructed principally of wood frame, cedar siding, and poured concrete. The location of the buildings is set forth on the plat attached hereto as Exhibit "A." There shall also be an 8-unit garage.

3.2 DESIGNATION, LOCATION AND LAYOUT OF UNITS

Each living unit shall contain 1160 square feet. The unit number of each living unit and its location is set forth on the attached Exhibit "A." The unit number of each garage unit and its location is set forth in the attached Exhibit "A." Attached hereto as Exhibit "B" is a prototype floor plan of each living unit.

3.3 UNIT FACILITIES

The following items, areas and facilities (hereafter referred to as "facilities of a unit") shall not be considered common elements, but shall be considered a part of the unit owned by the unit owner to the extent that such items, areas or facilities are within the exterior boundaries of the unit or are used by or service that unit alone: a) equipment, appliances, fixtures, are within the exterior boundaries of the unit or are used by or service that unit alone: a) equipment, appliances, fixtures, ducts, lines, pipes and laterals for services such as sewer, electrical power, gas, water, heat, and incineration; b) all other apparatus, equipment, fixtures and materials used in conjunction with, or servicing, such unit alone; and c) the balcony or patio adjoining that unit.

3.4 USE

(a) Each living unit shall be used by the unit owner and any other occupants solely as a single-family residential dwelling. No unit may be used at any time for conducting any business or commercial activity of any kind, except that any unit may be leased by a unit owner to tenants for terms of not less than one year and any unit owner or tenant may conduct business from the unit by telephone, but only to that extent; provided that Declarant may use any unit(s) which it owns as a sales office or model unit in conjunction with its sales activities, and Declarant and any mortgagee who has or acquires possession of or title to a unit may also lease any such unit(s) for terms of not less than thirty days.

(b) Use of each unit shall also be subject to the act, the other provisions of this Declaration, and the Bylaws and all Rules or Regulations as may be adopted by the Board from time to time.

(c) All upper units must be fully carpeted.

3.5 UNIT MAINTENANCE

(a) Each unit and all its facilities, and other fixtures, appliances and equipment located within or designated as a part of such unit shall at all times be maintained and repaired by the unit owner, at such unit owner's expense.

(b) Upon the failure of any unit owner, after reasonable notice, to perform any maintenance or repairs to a unit or its facilities which the Board may determine necessary or advisable for protection of common elements or for aesthetic reasons, the Association may (at its option) perform the same and may make special assessments against the unit and the unit owner for the cost thereof, either before or after such maintenance or repairs are performed. There shall be a perpetual easement for the Association and its officers, directors, employees, agents, servants and independent contractors to enter the unit at all reasonable times upon advance notice to the unit owner (and in emergencies without notice) to perform such maintenance or repairs which the Board determines necessary or reasonable and which it elects to perform.

## OWNERSHIP OF UNITS

4.1 EXCLUSIVE OWNERSHIP OF UNITS

Each unit owner shall be entitled to the exclusive use, ownership and possession of his, her or their unit, subject to the limitations, restrictions and other provisions of the Act, this Declaration, and the other condominium documents.

4.2 PERCENTAGE OF OWNERSHIP INTEREST

(a) Each living unit owner shall own a 1/8th undivided interest in all common and limited common elements, plus a 1/8th undivided interest in all assets and liabilities of the Association.

(b) A unit owner's ownership interest in all common elements and in all hazard insurance proceeds, condemnation awards and other assets and liabilities of the Association may not be modified in any respect or for any reason.

4.3 EASEMENTS FOR ACCESS

Each unit owner and all tenants or other occupants of a unit (except as otherwise provided under any leases) shall have the following non-exclusive rights and easements which shall be appurtenant to and shall pass with title to every unit and may be exercised in accordance with the Act, this Declaration and the other condominium documents: a right of ingress and egress over and across driveways, walks, hallways, stairs and other common elements necessary for pedestrian access to the unit and to all

limited common elements reserved for that unit, provided such access is not on or over limited common elements reserved for any other unit(s); and a right of ingress and egress over and across driveways and parking areas necessary for vehicular access to garage units owned by said unit owner, provided such access is not on or over limited common elements reserved for any other unit(s).

4.4 NO PARTITION OF UNITS

If any unit shall be owned by two or more joint owners, nothing contained in this Declaration shall prohibit a judicial partition of such unit as between such joint owners so long as such partition does not involve a physical partition, separation or division of the unit into two or more residential dwelling units. No unit shall be physically partitioned, separated or divided into two or more residential dwelling units.

## COMMON ELEMENTS

5.1 USE OF COMMON ELEMENTS

(a) Each unit owner and his, her or their tenants (except as otherwise provided under any lease) shall have a non-exclusive right and easement to use and enjoy all common elements (other than limited common elements reserved for the exclsuive use of any other unit) all subject to the Act, this Declaration, the Bylaws and any Rules and Regulations adopted by the Board from time to time.

(b) Except for damages covered by insurance maintained by the Association, each unit owner shall be responsible and liable to the Association for any damage (except ordinary wear and tear) to the common elements caused by or at the direction of such unit owner or any tenant, guest or occupant of the unit or caused by improvements or repairs to, or by a lack of maintenance of, the unit or the limited common elements appurtenant to the unit.

(c) There shall be no obstruction of any common elements other than for temporary parking of motor vehicles in designated parking areas or as necessary for repairs to the property or for excavation or construction of improvements to the common areas, nor shall anything be kept or stored in or upon any part of the common or limited common elements (other than as otherwise expressly authorized under this Declaration or the other condominium documents) without the prior written consent of the Board.

(d) Nothing shall be removed from nor erected, emplaced, altered, or constructed in or about the common or limited common elements without the Board's prior written consent, unless specifically authorized under the condominium documents.

5.2 CONSTRUCTION OF IMPROVEMENTS, MAINTENANCE AND REPAIRS

(a) The Association shall be responsible for maintenance and repair of all existing improvements and for construction, maintenance and repair of all other improvements which the Association may wish to install, except as otherwise provided in any of the condominium documents. All such costs and expenses for maintenance or repair of any improvements or for construction or installation of any improvements (other than for construction of existing improvements) shall be considered common expenses to be shared equally by the owners of all units. All costs and expenses for maintenance and repair of roads, drives, walks, sanitary sewers, storm sewers, water lines, and other utilities or services within or comprising the common elements and available for use by more than one unit shall also be common expenses and shall likewise be shared equally by all unit owners. Declarant shall not be responsible or liable for any costs or expenses for construction or installation of improvements beyond the existing improvements reflected in the plat and floor plans.

(b) No unit owner may exempt himself or herself from liability for common expenses, regardless of the form of ownership of the unit or the extent of use of the common elements by such owner or other occupants of the unit.

5.3 NO PARTITION, ENCUMBRANCE OR TRANSFER OF COMMON ELEMENTS

(a) There shall be no partition of the common elements through judicial proceedings or otherwise without the prior written consent of all unit owners and their mortgagees unless this Declaration is terminated and all property is withdrawn from the terms of any statutes applicable to condominium ownership.

(b) Neither the Declarant nor the Association may abandon, subdivide, encumber, sell or transfer any of the common elements apart from an encumbrance, sale or transfer of a unit without the prior written consent of all unit owners (other than Declarant) and their mortgagees, except for easements or right-of-ways which may be granted under Subsection 10.3(c) and lien rights as may be granted or as may arise against the percentage of ownership interest in common elements appurtenant to a unit.

LIMITED COMMON ELEMENTS

6.1 DESIGNATION OF LIMITED COMMON ELEMENTS

The limited common elements appurtenant to each respective living unit shall consist of one storage area. Each living unit shall also have, as a limited common element, the patio or porch adjacent thereto.

6.2 USE OF LIMITED COMMON ELEMENTS

(a) Except as may be authorized by the Rules and Regulations, no limited common elements may be used for temporary or permanent storage of articles, equipment, vehicles or materials of any kind, except for the storage of articles in the storage area for the unit. No flammable, explosive or other dangerous substances, liquids or materials shall be stored or kept by any unit owner in his, her or their storage area. No trailers, mobile homes, or snowmobiles may be stored on the premises, and no automobiles may be put up on blocks on the premises.

(b) The rights to exclusive use and enjoyment of the limited common elements appurtenant to a unit shall not be subject to transfer or conveyance apart from a transfer or conveyance of the unit to which they are appurtenant. Such rights to use and enjoy all limited common elements then appurtenant to a unit shall automatically pass with the transfer or conveyance of title to the unit.

(c) The use of the storage area appurtenant to the unit shall be subject to such Rules and Regulations as the Board may adopt from time to time.

DAMAGE OR DESTRUCTION

7.1 UNIT DAMAGE

(a) This section shall apply in the event of any damage or destruction to all or part of any unit from one or more occurrences.

(b) The owner(s) of a unit shall be solely responsible for all interior repairs, reconstruction and rebuilding of such unit and all its facilities and contents in the event of any damage of any kind resulting from any cause(s) whatsoever, except that this provision shall not preclude or otherwise affect the unit owner's right to recover any such costs and expenses from any person(s) responsible for such loss. The Association shall be responsible, and shall reimburse the unit owner, for the cost of repairs or replacements required by reason of physical damage to a unit or it contents if (and only if) such damage is caused by the clogging, breakage, lack of repair or defective or damaged condition of any common elements or by any insured fire or other casualty or occurrence for which the Association has insurance coverage, but only to the extent of such coverage.

(c) Any unit damaged by fire or other casualty or occurrence of any kind shall be promptly repaired, reconstructed or rebuilt by the unit owner, at his, her or their expense (following completion of repairs or rebuilding by the Association of the common elements necessary therefor), if the cost of such

repairs is reasonably estimated to be less than 50% of the fair market value of the unit prior to the date of initial damage or destruction, as determined on a cost approach basis.

(d) The proceeds of collectible insurance maintained by the Association under Section 9.4(a)(5) shall be made available for the purpose of repairing and rebuilding those damaged portions of a unit so insured, upon submission of contractors' invoices and lien waivers for work performed, unless the owner or mortgagee of such damaged unit and the owners or mortgagees of at least two-thirds of all other units agree in writing that such insurance proceeds need not be so applied, in which event the insurance proceeds attributable to such insured portions of a damaged unit shall be paid to the unit owner and the mortgagee as their interests may appear.

(e) If the cost of repair, reconstruction or rebuilding of such a damaged unit is reasonably estimated to be 50% or more of the unit's fair market value prior to the date of initial damage, as determined on a cost approach basis, the owner shall serve a written notice to the Board within thirty days after the completion of repairs to common elements necessary for commencement of repairs to the unit stating whether or not such unit will be repaired, reconstructed or rebuilt.

(f) In the event a unit owner fails to promptly perform any repairs, reconstruction or rebuilding, or serves written notice of an intent not to repair, reconstruct or rebuild, or fails to serve a written notice as required under Subsection 7.1(d) within the time provided, the Association shall have the option to purchase such unit (upon the vote of a majority of the Board) for 80% of the fair market value of the unit (assuming such unit was repaired to the extent of any proceeds of available insurance maintained under Section 9.4(a)(5), unless previously paid to the unit owner or mortgagee, in which case such value shall be in the then existing condition) which shall be determined on a market approach basis by a qualified appraiser selected by the Board prior to the exercise of such option; provided, however, such purchase price shall not be less than the total indebtedness due on any first mortgage on such unit. Such option shall be exercised by the Association, if at all, within ninety days following the receipt of written notice from the unit owner of an intent not to repair or rebuild or within ninety days following completion of repairs to the common elements necessary for such owner to commence repairs to the unit and the failure of the unit owner to so commence such repairs within forty-five days following completion of repairs to the common elements. The Association shall not be entitled to exercise this option to purchase without either fully satisfying any outstanding first mortgage on the unit or attaining the prior written consent of the holder of any such first mortgage and, upon exercise of such option, all proceeds of insurance maintained under Section 9.4(a)(5) shall then be payable to the Association, which shall repair the unit to the extent of such available proceeds recovered for damage to the unit.

(g) In the event the cost of repair, reconstruction or rebuilding of damage to a unit is reasonably estimated to be less than 50% of the unit's fair market value prior to the date of such damage or destruction (determined on a cost basis), it shall be conclusively presumed that each unit owner voted and the Association determined (on the 30th day following the completion of repairs to common elements necessary for commencement of repairs to the unit) that the unit shall be repaired, reconstructed or rebuilt by the unit owner. If the cost of repair, reconstruction or rebuilding of damage to a unit is reasonably estimated to be 50% or more of such fair market value, it shall be conclusively presumed that each unit owner voted and the Association determined (on the 30th day following completion of repairs to common elements necessary for commencement of repairs to the unit) that such unit shall be repaired, reconstructed or rebuilt within ninety days thereafter to the extent such repairs would be covered by insurance proceeds available to the unit owner or the Association for such purpose and additional repairs, reconstruction and rebuilding need not be undertaken by the unit owner in absence of any obligation to do so to a first mortgagee, unless the unit owner, the holder of any first mortgage on the unit and at least two-thirds of the owners or mortgagees on all other units determine otherwise in writing prior to such a presumed determination by the Association. However, nothing contained in this subsection shall preclude the Association from exercising its option to purchase such unit under Subsection 7.1(f) or preclude the Association or the unit owner (if the Association does not exercise such option to purchase) from thereafter repairing, reconstructing or rebuilding the unit at any time.

7.2 DAMAGE TO COMMON ELEMENTS

(a) This Section and Article VI, Section 6.5 of the Bylaws shall apply in the event of any damage or destruction to all or part of any common or limited common elements resulting from one or more occurrences.

(b) Each unit owner shall promptly repair any damage to the limited common elements appurtenant to his, her or their unit caused by such unit owner or any tenant or occupant of the unit. The occurrence of any damage to any limited common elements shall constitute a vote by each unit owner and a decision by the Association on the 30th day following such damage that the same shall be repaired by the unit owner as provided above.

(c) Proceeds of insurance maintained by the Association under Section 9.4 shall be used to repair, reconstruct or replace any damage to common elements to the extent available, unless two-thirds of all unit owners, or their mortgagees, agree in writing that such repairs or replacements should not be performed, in which event such insurance proceeds shall first be used to raze and remove or to permanently seal or cover the damaged items and to preserve the functional utility and aesthetic appearance of the property.

(d) The Association shall repair, reconstruct or replace any damaged portions of the common elements (other than storage lockers if damaged by the owner or other occupant of the unit to which it is appurtenant) to substantially the same condition as existed immediately prior to such damage if the costs of repair of such damage resulting from any single occurrence or series of occurrences are reasonably estimated to be covered by or to be less than $40,000 above the amount of available insurance proceeds (based upon 1982 value), unless two-thirds of all unit owners, or their mortgagees, agree in writing that such repairs should not be performed. The performance of repairs by the Association shall constitute consent by each unit owner and mortgagee that such repair should be performed, and any vote or written agreement by the unit owners or mortgagees not to have such repairs performed shall be effective only for repair work not already performed by the Association.

(e) If the cost of repairs for damage to common elements is estimated to be $40,000 or more in excess of the amount of available insurance proceeds (based upon 1982 value), such repairs shall be performed upon the vote or written agreement to do so by a majority of the owners.

7.3 WAIVER OF PARTITION; VOTE FOR REPAIRS

By acceptance of a deed or other transfer or acquisition of any legal or equitable interest in the property or in any unit, each unit owner, joint owner, mortgagee, and other transferee:

(a) irrevocably waives all rights, and agrees not to prosecute any claim, for partition of the property or any part thereof (including any unit) as may otherwise be available under the Act or under Section 812.02, Wis. Stats. (as the same may be amended), or under any other laws of the State of Wisconsin, unless prior written consent to partition is obtained from each unit owner and their mortgagees;

(b) agrees that (regardless of any other provisions of this Declaration or the other condominium documents) the completion of repairs, reconstruction or rebuilding of damage to all or part of the property in accordance with Section 7.2 shall constitute consent by each unit owner and mortgagee and a determination by the Association that such repair, reconstruction or rebuilding should be performed and further agrees that the provisions of Section 7.2 shall constitute a vote by each unit owner and a decision by the Association that repairs, reconstruction or replacement of common elements shall or shall not be performed as provided under Section 7.2;

(c) agrees that in the event of damage or destruction of any part of a unit, the provisions of Section 7.1 shall constitute a vote by each unit owner and a decision by the Association that the same shall be repaired by the unit owner as required under Section 7.1, provided that such a vote and decision

shall in no way obligate the Association or any unit owner (other than the owner of the damaged unit) to perform or pay for any costs incident to repair, reconstruction, rebuilding or razing and removal of the damaged unit beyond the extent of available insurance proceeds.

### 7.4 VOTE FOR SALE OF PROPERTY IN THE EVENT OF DAMAGE

The unanimous vote of all unit owners and consent of their mortgagees shall be required for any sale of the entire property or a portion thereof or for partition of the property in the event of damage or destruction of all or part of the property and the failure of any unit owner or mortgagee to vote in favor of such a sale shall constitute a decision by the Association not to sell.

### 7.5 ABANDONMENT OR TERMINATION

Anything contained herein to the contrary notwithstanding, the condominium project may not be abandoned or terminated without the written approval of all of the mortgagees and unit owners.

## CONVEYANCE OF UNIT

### 8.1 INTERESTS INCLUDED IN CONVEYANCE

No unit owner may sell, convey or transfer any legal or equitable interest in his, her or their unit without including the ownership interest in the common elements and in all assets and liabilities of the Association appurtenant to the unit; and any deed, mortgage or other instrument purporting to affect one or more of such interests, without including them all, shall be deemed to include all such rights, title, interests and obligations of the unit owner.

### 8.2 NOTIFICATION OF CONVEYANCE

Within five days after a sale, mortgage, transfer or conveyance (by deed, land contract or otherwise) of any legal or equitable interest in a unit, the purchaser or mortgagee shall deliver notice to the Association stating: a) the date of the conveyance; b) the unit; c) the purchaser's or mortgagee's name and mailing address; d) the name and address of the designee of such purchaser, if any; and e) any other information as may be required under the condominium documents or as may be reasonably requested by the Board.

## EXPENSES, ASSESSMENTS, LIENS AND COLLECTION

### 9.1 COMMON EXPENSES AND ASSESSMENTS AGAINST UNITS AND UNIT OWNERS

(a) The Board shall pay or arrange for payment for all costs, expenses and liabilities incurred by the Association

out of the proceeds of assessments which shall be made against the unit owners and their units.

(b) "Special Assessments" may be made by the Board against a particular unit owner and his, her or their unit for:

(1) costs and expenses (anticipated or incurred) for damage to common elements caused by or at the direction of that unit owner or guests or tenants of the unit owner or other occupants of the unit;

(2) costs, expenses and actual attorneys' fees incurred in, or in anticipation of, any suit, action or other proceeding to enforce the Act, the Declaration, the Bylaws, or the Rules and Regulations against the unit owner or other occupant of the unit;

(3) costs and expenses (anticipated or incurred) for emergency repairs to the unit;

(4) liabilities, costs and expenses incurred by the Association as a result of any temporary or permanent condition or defect of the unit or the storage area appurtenant to the unit;

(5) interest due on general and special assessments;

(6) forfeitures and other penalties levied by the Board for violations of the condominium documents by a unit owner or the tenants or guests of the unit owner or occupants of a unit;

(7) all other costs and expenses anticipated or incurred by the Association which are subject to special assessments as provided under this Declaration or the Bylaws.

(c) "General Assessments" shall be made and levied by the Board against each unit owner and his, her or their unit for the following "common expenses" which may be anticipated, incurred or paid by the Association for:

(1) maintenance, security, repairs, upkeep or operation of common elements and any additional common elements acquired by the Association;

(2) insurance maintained by the Association;

(3) taxes, assessments and charges of any kind made or levied by any governmental authority against the Association or upon any property of the Association;

(4) all costs and expenses for the operation and administration of the Association, including legal, accounting and management fees and other costs incident to the exercise of any of its powers or obligations;

(5) costs and expenses for additional improvements of any kind beyond the existing improvements in the plat and floor plans;

(6) all items subject to special assessment which have not been collected from a unit owner at the time payment of such item is due, provided that upon collection of the special assessment from that unit owner, all other unit owners shall receive an adjustment, reimbursement or other appropriate credit on future general assessments, as the Board determines appropriate, for payments made under this sub-paragraph;

(7) all damages, costs, expenses and attorneys' fees incurred in, or in anticipation of, any suit or proceeding (whether administrative, legislative or judicial) which are not otherwise collected by special assessment;

(8) all other costs and expenses covered by the annual operating budget or declared to be common expenses under the Act, this Declaration or the Bylaws.

The general assessments shall be levied as follows:

(i) 12% of the total thereof against each living unit; and

(ii) 1% of the total thereof against each garage unit.

(d) The Association shall maintain separate books and records for general and special assessment accounts of the unit owners, as necessary, provided that all funds received by the Board from either assessment may be commingled and thereafter disbursed to pay any costs or expenses incurred by the Association which would be subject to general or special assessment.

(e) Declarant shall not be responsible for assessments levied against any unit prior to sale of fifty per cent of all of the units by Declarant. Declarant shall pay all assessments accrued on a given unit between the time of the sale of fifty per cent of the units and closing of the given unit at the time of closing thereof. Declarant shall not be responsible for any general or special assessments for improvements, capital expenditures, reserves, or replacement funds of any kind which may be levied by the Board. The Board may at any time levy assessments for such purpose against the unit owners (other than Declarant) and against all units, including those owned by Declarant, except that such assessments against any unit(s) owned by Declarant shall not be due or otherwise collectible until Declarant conveys title to such unit and then only from the Declarant's successors in interest, with the lien therefor to be effective as of the date of transfer of title.

9.2 PAYMENT OF ASSESSMENTS

(a) Each unit owner shall promptly pay, when due, all general and special assessments made by the Board against such owner and his, her or their unit, together with all costs, expenses and reasonable attorneys' fees incurred by the Board in collection of any delinquent assessment(s). All assessments shall become due as the Board may determine appropriate (in a lump sum or in installments with or without interest), except that all assessments for the reserve fund to be maintained under Bylaw Section 6.4(a)(2) shall be payable in regular installments, without interest if paid when due. Time is of the essence with respect to all payments.

(b) All joint owners of a unit, except Declarant to the extent exempted by Section 9.1(e), shall be jointly and severally liable for all general and special assessments levied against the unit, regardless of the type of tenancy, estate or interest (whether joint tenants, tenants-in-common, or land contract purchaser(s) or seller(s), or otherwise).

9.3 DELINQUENT ASSESSMENTS: INTEREST, LIEN AND COLLECTION

(a) All general and special assessments which are not paid when due: shall bear interest at 12% per annum or at such other maximum rate as may then be permitted by law until the assessment is paid in full; shall constitute a lien on the unit and its appurtenant percentage of ownership interest; and shall be collectible and enforceable by the Board (in its own name or the name of the Association) by suit against the unit owner, by foreclosure of the lien and in any other manner or method provided under the condominium documents, the Act, or other laws of the State of Wisconsin. The lien granted hereunder shall also cover and include all interest accruing on delinquent assessments, plus costs, expenses and attorneys' fees for collection. Notwithstanding any other provisions of this Declaration or the Act to the contrary, any first mortgagee who obtains title to a unit pursuant to rights or remedies provided in the mortgage or through foreclosure

shall not be liable for any unpaid assessments, charges or interest which may accrue prior to the acquisition of title to such unit by such mortgagee and, upon acquisition of title by such mortgagee, the lien upon such unit for such unpaid assessments and charges shall be automatically released and the amount of such uncollected assessments and charges shall be considered a common expense.

(b) Acceptance of a deed or other conveyance, transfer or acquisition of any legal or equitable interest in or encumbrance upon a unit, constitutes an assignment to the Association of all rents and profits from the unit, including those due and to become due, upon the following terms and conditions to the extent necessary to satisfy delinquent assessments: The assignment of rents and profits under this subsection shall be effective (without further notice and with or without the appointment of a receiver) upon delivery by the Board of a written notice to the tenant(s) of that unit specifying that the unit owner is in default in payment of assessments and demanding that all future payments be made to the Association until further notice. Following receipt of such a written notice and demand, the tenant(s) shall pay the rents and profits to the Board without further obligation to the unit owner to the extent of payments so made.

(c) A unit owner who is more than thirty (30) days delinquent in any payment due the Association shall not be entitled to vote on any matter, nor shall any such owner serve as a Director on the Board during such time; provided, however, the delinquency by a unit owner shall not preclude or otherwise affect the exercise of voting rights by a mortgagee pursuant to an assignment or other transfer of voting rights to secure a mortgage on the unit.

(d) All rights and remedies under the Act, this Declaration or the other condominium documents for collection of assessments shall be cumulative and the election of one or more shall not constitute a waiver of any others.

9.4 INSURANCE

(a) The Association shall maintain, as a common expense, the following insurance coverages:

(1) Public liability insurance covering the Association, the Board and members of the Association against liability for damages or personal injuries sustained by any person, firm or corporation arising out of or resulting in whole or in part from the condition, use or operation of any common elements or from any activity of the Association,

with limits of not less than $1,000,000/person and $3,000,0000/occurrence for bodily injury or death and not less than $250,000/occurrence for property damage, including a waiver of subrogation rights against any member, officer or Director of the Association;

(2) Workmen's compensation insurance to the extent necessary to comply with applicable law;

(3) Indemnity, faithful performance, fidelity and other bonds, as may be required by the Board, to carry out the Association functions and to insure the Association against any loss from malfeasance or dishonesty of any employee or other person charged with management or possession of Association funds or other property;

(4) Fire and broad form extended coverage insurance in the name of the Association covering all common elements in the amount of the full insurable replacement value thereof, as determined by the Board from time to time, with loss payable to the Board as trustee for the Unit Owners and their respective mortgagees (as their interests may appear) and with a waiver by such insurer of any subrogation rights against the unit owners and the Association and their respective agents, servants and employees acting in good faith. Such insurance shall be non-cancellable except upon 30 days advance written notice to the Board;

(5) Fire and broad form extended coverage insurance for the basic shell of each unit (including doors, windows, cabinets, closets, subflooring, insulation, drywall for walls and ceilings, and standard plumbing and electrical fixtures); but excluding floor and wall coverings, appliances such as ranges, refrigerators dishwashers, disposals, washers and dryers, custom plumbing and electrical fixtures, drapes and window treatments, fire and security systems, and other contents or components of the unit, in

the amount of the full insurable replacement value thereof, as determined periodically by the Board, with loss payable to the Board as trustee for the Association, the unit owners and their mortgagees (as their interests may appear) and with a waiver by such insurer of any subrogation rights against other unit owners and the Association and their respective agents, servants and employees acting in good faith. The premiums for such insurance coverage may, at the option of the Board, be required to be paid in advance by each respective unit owner in the form of general assessments to be levied by the Board. Each initial purchaser of a unit shall, if requested by the Board or Declarant, deposit the estimated cost of one (1) year's premium for such insurance at the time of purchasing such unit and such deposit, if collected, shall be used to pay such premium or to reimburse Declarant for the costs of such premium prepaid by Declarant.

Each unit owner shall be solely responsible for payment of the deductible portion of any claim under this policy of insurance for damage to his, her or their unit.

(6) Any other insurance coverage or additional protection which the Board may deem necessary or advisable, including, without limitation, comprehensive liability insurance.

(b) Each unit owner shall be responsible for maintaining adequate insurance coverages for his, her or their unit (beyond the coverage to be maintained by the Association under Section 9.4(a)(5)) and for the limited common elements appurtenant to the unit and for all contents of the unit (including, without limitation, floor and wall coverings, appliances--such as any range, refrigerator, dishwasher.--custom plumbing and electrical fixtures, drapes and window treatments and fire and security systems) and for all personal property of the unit owner.

(c) Except as specifically provided in Sections 7.1 and 7.2 for application of proceeds of insurance maintained by the Association under this section to repair damage to any unit or common elements, no unit owner or other party shall have priority over any rights of a first mortgagee of a unit pursuant

to its mortgage or mortgage note with respect to distribution of insurance proceeds for loss or damage to a unit or any common elements.

## ASSOCIATION OF UNIT OWNERS

### 10.1 ASSOCIATION RESPONSIBILITIES

The Association shall be responsible for the operation and administration of the property in accordance with the Act, this Declaration and the other condominium documents.

### 10.2 MEMBERSHIP: VOTING

(a) Each living unit owner shall be a member of the Association and shall be entitled to one membership and one vote for each living unit owned, with ownership being the sole qualification for membership, except that Declarant shall have two votes for each living unit owned by Declarant until such time as living units aggregating a percentage of ownership interest in the common elements equal to 50% have been sold and title transferred by Declarant or until the second year anniversary date of Declarant's transfer of title to the first unit, whichever first occurs.

(b) Association membership and voting rights shall be appurtenant to each living unit and shall not be assigned, conveyed or transferred in any way other than to a transferee of title to the unit or to the holder of an outstanding mortgage on the unit; nor shall membership or voting rights be retained, except upon retention of title to the unit. Joint owners of a living unit shall share the one membership appurtenant to the unit in the same manner as their tenancy or estate in the unit. Any attempt to make a prohibited transfer or retention of such rights shall be null and void.

(c) The vote for each living unit shall be cast as a whole, in person or by proxy, by the unit owner or by one of the joint owners or their designee who may be appointed in accordance with Section 2.3(c) of the Bylaws. Fractional votes will not be allowed, and if joint owners do not agree on how the vote shall be cast or if a fractional vote is attempted, the right to vote on the matter in question shall be forfeited by such owners of the unit.

(d) Prior to Declarant's conveyance of living units aggregating a percentage of ownership interest in the common elements equal to 25%, the living unit owners (other than Declarant)

shall elect 25% of the Directors on the Board, or more at the option of Declarant. Such Director(s), or his or her successor(s) elected by such unit owners, shall serve until the unit owners (other than Declarant) elect one-third of the Directors on the Board at a meeting of the Association to be held after the conveyance of living units aggregating a percentage of ownership interest in the common elements equal to 40% but prior to the conveyance of living units aggregating a percentage of ownership interest in the common elements equal to 50%. The election of Directors by the living unit owners (other than Declarant) during such times shall be governed by Section 4.1 of the Bylaws.

(e) In any election of members of the Board after the conveyance by Declarant of units aggregating a percentage of ownership interest in the common elements equal to 50%, each living unit owner shall be entitled to cumulate his, her or their votes and give one candidate, or divide among candidates, a number of votes equal to the number of directors to be elected multiplied by the number of living units owned by such living unit owner (except that prior to Declarant's sale and transfer of units aggregating a percentage of ownership interest in the common elements equal to 50%, Declarant may cumulate his votes based on two times the number of living units owned by Declarant times the number of directors to be elected).

(f) In no event shall a unit owner be entitled to cast the vote appurtenant to a unit against which any general or special assessment is then delinquent by more than thirty (30) days.

10.3 POWERS OF THE ASSOCIATION

The Association shall have the following powers, in addition to any others which may be authorized or required under the Act, this Declaration or the other condominium documents:

(a) to levy and enforce payment of general and special assessments against a unit owner and his, her or their unit;

(b) to enforce the Act, this Declaration and the other condominium documents;

(c) to grant or otherwise convey easements or right-of-ways in, over and under common elements for the construction, operation or maintenance of: overhead or underground lines, cables, wires, conduits or other devices for electricity, lighting, heat, power, telephone, television, security and similar services; public sewers (storm and sanitary); water systems; sprinkling systems; and water or gas service,

lines and pipes; and other similar public or quasi-public improvements or facilities;

(d) to purchase, sell and convey units pursuant to Section 7.1 or incident to foreclosure of a lien for assessments;

(e) to enter and execute contracts, deeds, mortgages and all other documents and instruments for Association purposes on behalf of all members;

(f) to incur indebtedness on behalf of all Association members for Association purposes and to execute promissory notes, checks, drafts and other instruments and give such security as may be required therefor, provided that the liability of any given member shall be limited to his, her or their percentage of ownership interest.

(g) to commence, prosecute, defend or otherwise be a party to any suit, hearing, or proceeding (whether administrative, legislative or judicial) involving the enforcement of the Act, this Declaration or the other condominium documents or the exercise of any powers, duties or obligations of the Association;

(h) to employ the services of any person, firm or corporation to manage the Association, levy and collect assessments, and to manage, inspect, maintain, operate, improve, repair, rebuild, reconstruct, replace or remove any common elements (provided, however, that any agreement for professional management of the Association by the Declarant or any other contract for services of Declarant or any person affiliated with Declarant shall provide for termination by either party without cause and without termination fee or penalty upon ninety days' prior written notice and may not exceed three years);

(i) to acquire, sell, transfer or exchange goods, equipment and other personal property or fixtures in the name of the Association for the operation, use, maintenance or enjoyment of the common elements or for the operation of the Association;

(j) to construct improvements to the common elements, except that any construction with an estimated cost of $5,000 or more (based on 1982 values) must first be approved by a majority of the living unit owners by vote at a meeting called for such purpose;

(k) to adopt (by majority vote of the Board) Rules and Regulations consistent with this Declaration and the Bylaws for the management, operation, use and enjoyment of the common and limited common elements and for the use of the units, which may include forfeitures, fines or penalties to be assessed for

violations thereof in accordance with such procedures as the Board may specify;

(l) to regulate outdoor parking; and

(m) to exercise all other necessary or incidental powers to administer the property.

10.4 BOARD: EXERCISE OF ASSOCIATION POWERS

The Board shall exercise and perform all powers, duties and obligations of the Association specified in the Act, this Declaration or the Bylaws and not otherwise expressly requiring the prior vote or written consent of the Association members.

10.5 PERSONAL LIABILITY

No Director or officer of the Association shall be personally liable to any unit owner or to any other party, including the Association, for any loss or damage suffered or claimed on account of any act, omission, error or negligence of such officer or Director acting in such capacity, provided such person acted in good faith, without willful or intentional misconduct.

10.6 UNIT OWNER'S LACK OF AUTHORITY TO BIND ASSOCIATION

No unit owner (other than officers and members of the Board) shall have any authority to act for the Association or the other unit owners, as agent or otherwise, nor shall a unit owner (in such capacity as a unit owner) have any authority to bind the Association or the other unit owners to contracts, negotiable instruments or other obligations or undertakings of any kind.

10.7 EXECUTION OF DOCUMENTS

All contracts, deeds, notes and other instruments and documents of any kind shall be executed on behalf of the Association by the President (or any Vice President) and the Secretary or Treasurer and, when so executed, shall be deemed to be the act of, and shall be binding upon, the Association for all purposes, regardless of whether specifically authorized by resolution or other direction of the Board, provided the other party to such instrument or document does not procure the same by fraud or misrepresentation or with actual knowledge that such officers are not duly authorized to execute the same.

## MISCELLANEOUS

### 11.1 AMENDMENTS TO DECLARATION

This Declaration may be amended at a meeting duly called for such purpose by an affirmative vote of the owners of at least 75% of all the living units; provided, however, that any amendment to change or otherwise alter the percentage of ownership interest of any unit owner shall require unanimous consent of all unit owners and their mortgagees.

Copies of each amendment shall be certified by the President and Secretary of the Association or such other officers as the Board may designate and shall not become effective until duly recorded in the office of the Register of Deeds for Sheboygan County, Wisconsin, together with a certified copy of a resolution of the Board authorizing officers, other than the President and Secretary, to certify such amendment, if not certified by the President and Secretary.

### 11.2 SERVICE OF PROCESS

Service of process upon the Association for all matters provided for in the Act or in this Declaration shall be made upon JOSEPH A. BIWAN, 613 School Street, Kohler, WI 53044, until such time as the Association shall designate a successor to receive service of process by recording such designation with the Register of Deeds for Sheboygan County, Wisconsin, and by filing a copy of same with the Secretary of State of the State of Wisconsin.

### 11.3 UNIT OWNER LIABILITY: REAL PARTY IN INTEREST

(a) The owner of a living unit shall be liable to third parties up to 1/8th of all costs, damages, debts, obligations and other liabilities of the Association. By acceptance of a deed or other conveyance or transfer of any legal or equitable interest in a unit, the owner, joint owner, and all other transferees consent to personal liability to the extent of 1/8th of any judgment entered against the Association without being made a party to the action in which such judgment is obtained, provided such liability shall be limited as provided under Subsections 11.3(a) and (b).

(b) A unit owner shall not be liable (directly or indirectly) to any person, firm, corporation or organization for any debt or other obligation of the Association or of the other unit owners beyond such owner's 1/8th ownership interest in the assets and liabilities of the Association. A unit owner shall not be liable for any personal injuries or damages arising out of

any temporary or permanent condition or defect of any common elements beyond such owner's 1/8th ownership interest in the assets and liabilities of the Association. A unit owner shall also not be liable for other damages or liabilities of any kind arising out of the operation or management of the Association beyond his or her equal ownership interest in the assets and liabilities of the Association.

(c) The Association shall represent and defend the unit owners and shall be the real party in interest to represent and defend or prosecute any claim on behalf of or against all the unit owners in any suit, action or other proceeding: 1) for enforcement of any debt or other contractual obligation to or from the Association or all the unit owners; or 2) involving personal injuries or other damages of any kind arising out of any temporary or permanent condition or defect of any common elements; or 3) for damages of any kind arising out of the operation or management of the Association; or 4) for enforcement of the Act, this Declaration or the other condominium documents.

(d) The Association shall indemnify and hold each unit owner harmless for all liabilities, costs, expenses and damages which are determined to be enforceable obligations of the Association; provided that such unit owner shall be liable to the Association for his or her equal share of such common expenses.

11.4 SIGNS & WINDOW TREATMENTS

(a) No unit owner (other than Declarant) shall erect any temporary or permanent sign, banner, flag or other similar item of any kind upon the unit or upon any common or limited common elements, except with the prior written consent of the Board or as specifically authorized under this Declaration or the other condominium documents.

(b) Each unit owner shall have the right to attach to his, her or their unit, building and construction permits and licenses, when necessary. No unit owner (other than Declarant) shall permit any sign of any kind to be placed in or about the unit or any common elements so as to be visible from outside the unit, including (without limitation) any sign indicating the availability of the unit "for rent" or "for sale." Declarant shall have the right to maintain "model" units and on-site offices and to install signs and sales materials and facilities on or about any units or the common elements as it determines appropriate for its initial sale of all units.

(c) Any sign, banner, window treatment or other items erected in violation of this Section may be removed by the

Association, its agents or employees, without prior notice to or consent from the unit owner; and each unit owner grants an easement to the Association to enter his, her or their unit to effect such removal.

(d) The Association and any member, employee or agent of the Association shall not be liable to any unit owner for any damages occasioned by an act, omission, error or negligence involved in the removal of any sign, banner or other items maintained in violation of this section, provided such person acted in good faith, without willful or intentional misconduct.

11.5 ANIMALS, PLANTS AND INSECTS

(a) No unit owner shall permit pets, other than dogs and cats to reside in any portion of the unit.

(b) No unit owner shall permit any thing or condition to exist in or upon any portion of the unit which may induce, breed or harbor infectious plant diseases, insects or rodents.

11.6 PROHIBITED ACTIVITY: QUIET ENJOYMENT OF PROPERTY

No use or activity is permitted within any unit or common or limited common elements which constitutes a visual, audio or physical annoyance or nuisance to any other unit owners or which otherwise interferes with the privacy and quite enjoyment of other unit owners or their tenants or which would violate any health or safety statutes, codes, ordinances or other applicable laws, rules or regulations.

11.7 EXCAVATIONS

No excavations, drilling or digging shall be performed in or upon any common elements without the prior written consent of the Board, except as necessary for the construction, repair or rebuilding of a unit or common elements; provided that in such cases of authorized excavation, drilling or digging by a unit owner, the unit owner shall restore the common elements to an equal or better condition than that which existed immediately prior to such activity, at such owner's sole cost and expense.

11.8 TRASH AND REFUSE

(a) Each unit owner shall be responsible for the temporary storage and regular removal of all rubbish, trash, papers, garbage and refuse from his, her or their unit, to

temporary storage facilities to be maintained by the Association.

(b) The Association shall be responsible for the removal of all garbage, trash, papers and refuse from the common elements and for its removal from the temporary storage facilities, all costs of which shall be common expenses.

11.9 DISCRIMINATION: RESTRICTIVE COVENANTS

No unit owner shall unlawfully discriminate against any actual or prospective tenant or purchaser nor shall any unit owner execute or file for record any instrument which attempts to impose a restriction upon the sale, lease, or occupancy of a unit on the basis of sex, race, color, creed or any other unlawful discrimination.

11.10 ENCROACHMENTS: "AS-BUILT" CONTROLS

Each unit shall have an easement over common elements to accommodate any minor encroachments due to or resulting from original construction, from settling or shifting of the unit or of the building, or from other similar causes beyond the direct control of the unit owner. In the event of reconstruction or rebuilding of a unit or any part thereof as a result of damage or destruction, there shall be an easement for encroachments over the common elements to the same extent that existed prior to such damage and there shall also be an easement for any other minimal encroachments which may result therefrom.

Regardless of the restrictions and limitations on easements for encroachments under this Section, each unit shall have an easement over common elements to accommodate any encroachment by any portion of a unit caused for whatever reason if, within six months after such encroachment arises, no action is commenced to restrain or enjoin such encroachment by the unit or to compel the removal thereof. If no action is commenced to restrain, enjoin or compel a correction of any as-built variance within six months after completion of any construction, reconstruction, remodelling, repairs or other work on the property, the as-built layout, location and condition shall control over the plat and floor plans and this Declaration shall be deemed to have been amended accordingly.

11.11 INDEMNIFICATIONS

In the event the Association is, for any reason, found liable for damages, fines or penalties resulting, in whole or in part, from any unauthorized act of a unit owner or from any other act or omission of an owner in the management, operation,

use or maintenance of his, her or their unit which violates the Act, this Declaration or the other condominium documents, or any applicable laws, ordinances or regulations, such unit owner shall indemnify and hold the Association harmless from all loss, liabilities, costs and expenses, including reasonable attorneys' fees incurred by the Association, except to the extent that such loss, liability, costs or expenses are covered by insurance maintained by the Association or arise from good faith acts or omissions of such unit owner as an officer or Director of the Association.

11.12 ENFORCEMENT: CUMULATIVE REMEDIES: NON-WAIVER

The Association (through the Board) shall have the exclusive right to enforce, by proceedings at law or in equity, all the terms, conditions, and provisions of the Act, this Declaration and the other condominium documents, except that any unit owner may proceed to enforce any such terms, conditions or provisions, at such owner's expense, if the Association fails to do so within sixty days following a written request by such unit owner for such action. Any unit owner violating any of the terms, conditions or provisions of the Act, this Declaration or the other condominium documents, shall pay all costs, expenses and actual attorneys' fees incurred by the Association or by a prosecuting owner in the successful enforcement thereof.

Each remedy set forth in the Act, this Declaration and the other condominium documents shall be in addition to all other rights and remedies available at law or in equity. All such remedies shall be cumulative and the election of one shall not constitute a waiver of any other. Any forebearance or failure of the Association to exercise any such right or remedy for any violation shall not be a waiver of such right or remedy under any circumstances unless a written waiver is obtained from the Board.

11.13 SEVERABILITY

The invalidity or unenforceability of any term, condition or provision of this Declaration or of any of the other condominium documents shall in no way affect the validity or enforceability of any other term, condition, or provision of this Declaration or of the other condominium documents, all of which shall remain in full force and effect.

11.14 COVENANTS RUN WITH LAND: TERM

All terms, conditions and provisions of this Declaration (as the same may be amended from time to time) shall constitute covenants running with the land and shall continue in full force and effect until the property is withdrawn from the provisions of the Act by unanimous consent of the owners of all units and their mortgagees or until the Declaration is amended in accordance with Section 11.1.

11.15 NO SURCHARGE OF ESTATES

The extent to which unit owners or lessees use the common elements shall not affect the obligation of each owner to share the common expenses for maintenance, repair and construction of the common elements; and any sale, conveyance or lease of individual units within the building, or any other division of estates, shall be without and free from all surcharge as may otherwise arise between dominant and servient estates.

11.16 MORTGAGE HOLDERS

(a) The holder of any first mortgage or other equivalent encumbrance on a unit may deliver written notice to the Association specifying their name and business address together with a request that the Association furnish any notices provided for under this section. Following receipt by the Association of such a notice and request, the Association shall furnish the first mortgagee or other equivalent encumbrancer:

(1) written notice of any meeting of the Association to be held for the purpose of considering any proposed amendment to this Declaration or the Bylaws; and

(2) written notice of default by the unit owner for failure to comply with any terms, conditions or provisions of the Act, this Declaration or the other condominium documents, which is not cured within sixty days.

Each unit owner, mortgagee and other encumbrancer shall promptly notify the Association of the transfer or termination of such mortgage or other lien interest in accordance with Section 8.2.

(b) Neither the unit owner nor any other party shall have priority over any rights of a first mortgagee of a unit pursuant to its mortgage or mortgage note with respect to distribution of any condemnation awarded for a loss or taking of a unit or any common elements or with respect to distribution of insurance proceeds for loss or damage to a unit or common elements, except as otherwise specially provided in Section 9.4 for repair of such damage.

11.17 NOTICES

(a) Notices to a mortgagee or other encumbrancer shall be deemed to have been duly given at the time of delivery or 72 hours after mailing within the State of Wisconsin by regular or certified mail addressed to the business office specified in the records of the Association, regardless of actual receipt.

(b) Notices to the Board shall be deemed to have been duly given at the time of delivery to a member of the Board or to the Association's on-site manager, if any, or 72 hours after mailing within the State of Wisconsin by certified mail to the President or Secretary of the Association, regardless of actual receipt.

(c) Notices to a unit owner shall be deemed to have been duly given, regardless of actual receipt, at the time of delivery to the unit or 72 hours after mailing by regular or certified mail to the unit owner or designee.

11.18 CAPTIONS AND SECTION HEADINGS

All captions and section headings of this Declaration are for convenience only and in no way define or limit the scope or effect of any of the provisions, unless the context necessarily requires otherwise.

11.19 NON-HOMESTEAD

The property is not homestead property of the partners of the Declarant at the time of this Declaration.

11.20 TERMINATION

The property may be withdrawn from the provisions of the Act, and this Declaration terminated, only upon the recording of an instrument to that effect executed by all unit owners and their mortgagees.

EXPANSION

12.1 Declarant reserves the right to expand the existing condominium by adding any portion or portions of the real estate legally described as follows and constructing on said real estate up to eighty (80) living units and up to eighty (80) garage units at any time within ten (10) years after the date of recording hereof:

Part of the Southeast 1/4 Southwest 1/4 of Section 16, Town 15 North, Range 23 East, Town of Sheboygan, Sheboygan County, Wisconsin, described as follows:

Commencing at the South Quarter corner of Section 16, Town 15 North, Range 23 East, North 0° 02' 42" West 343.80 feet along the East line of Southwest 1/4 to the point of beginning, thence South 88° 18' 07" West 263.63 feet, thence North 0° 02' 42" West 22.39 feet, thence South 88° 15' 25" West 133.38 feet, thence South 0° 02' 42" East 365.20 feet to the South line of said Section 16, thence South 88° 25' 48" West 267.00 feet along said South line, thence North 0° 06' 49" East 652.45 feet,

thence North 88° 15' 25" East 265.23 feet, thence South 0° 02' 42" East 155.34 feet, thence North 88° 14' 12" East 397.02 feet to a point on the East line of the Southwest 1/4 of said Section 16, thence South 0° 02' 42" East 155.40 feet to the point of beginning, excepting that portion previously sold for road purposes, being a tract containing 5.17 acres of land.

Said additional living units must be added by the construction of architecturally compatible 8-family apartment buildings.

In the event such additional units are added, the number of votes appurtenant to each additional living unit shall be one (1). The liabilities for common expenses and the right to common surplus of each living unit in the condominium shall always be equally shared by all owners of living units, an equally shared by all of the owners of garage units; provided, however, the percentage of liability of any garage unit owner shall always be 1/~~[illegible]~~ 24 of the percentage of liability of any living unit owner.

IN WITNESS WHEREOF, this Declaration of Condominium is executed by the Declarant the day and year first above written.

J.J.R. ASSOCIATES,
a Wisconsin partnership,

By: Joseph A. Biwan (SEAL)
Joseph A. Biwan, partner

By: John H. Zelm (SEAL)
John H. Zelm, partner

By: Randall C. Kath (SEAL)
Randall C. Kath, partner

STATE OF WISCONSIN )
) SS.
Sheboygan COUNTY)

Personally came before me, this 21 day of July, 1982, the above named JOSEPH A. BIWAN, JOHN H. ZELM, RANDALL, C. KATH, co-partners, d/b/a J.J.R. ASSOCIATES, a Wisconsin partnership, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

RICHARD J. RAKITA
Notary Public, State of Wisconsin
My commission expires: permanent

This instrument was drafted by:
Richard J. Rakita, Attorney at Law
270 East Kilbourn Avenue
Milwaukee, WI 53202

Exhibit A

# PLAT OF WEST MEADOWS CONDOMINIUM

PART OF THE SE¼ OF THE SW¼ OF SECTION 16, T15N, R23E, TOWN OF SHEBOYGAN
DAVID C HINZE, SURVEYOR SHEBOYGAN COUNTY

Part of the SE ¼ of the SW ¼ of Section 16, Town 15 North, Range 23 East, Sheboygan County, Wisconsin, described as follows:

Commencing at the South ¼ Corner of Section 16, Town 15 North, Range 23 East, thence N 0°-02'-42" W, 499.20', thence S 88°-14'-12" W, 265.64' to the true point of beginning, thence continuing S 88°-14'-12" W, 131.18', thence N 0°-02'-42" W, 155.34', thence N 88°-15'-25" E, 131.38', thence S 0°-02'-42" E, 155.29' to the point of beginning, being a tract containing 0.48 acres of land.

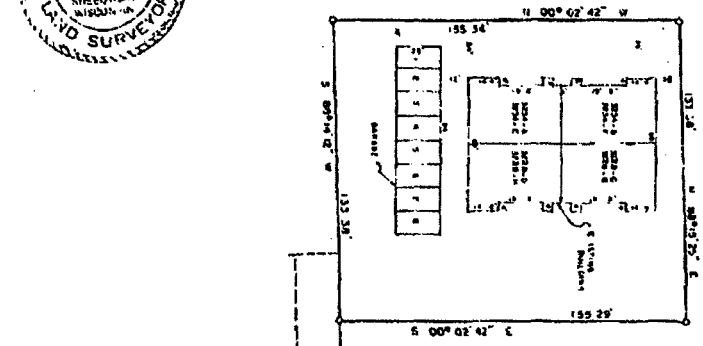
I, David C. Hinze, do hereby certify that I have surveyed the above described property and that this survey is an accurate representation of the exterior boundary lines and the location of the buildings and improvements constructed or to be constructed upon the property.

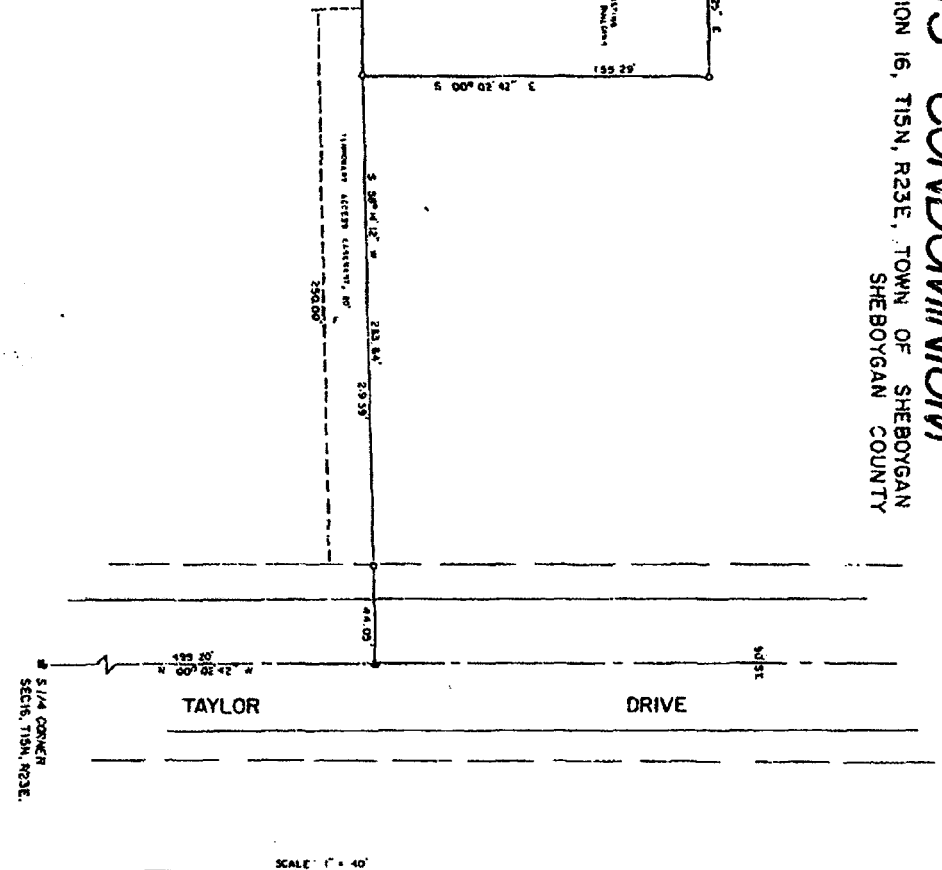
This condominium plat is a correct representation of West Meadows Condominium as proposed as the date hereof and the identification and proposed location of each unit and the common element can be determine from the plat. The common elements are defined to be all of the condominium property except the individual units described in this plat. The undersigned surveyor makes no certification as to the accuracy of the diagrammatic floor plan of the condominium building and units contained in the plat or the approximate dimension or floor areas thereof.

Dated this 21st day of July, 1982

David C. Hinze, R.L.S. S-924

WISCONSIN DAVID C. HINZE S-924 SHEBOYGAN WISCONSIN LAND SURVEYOR



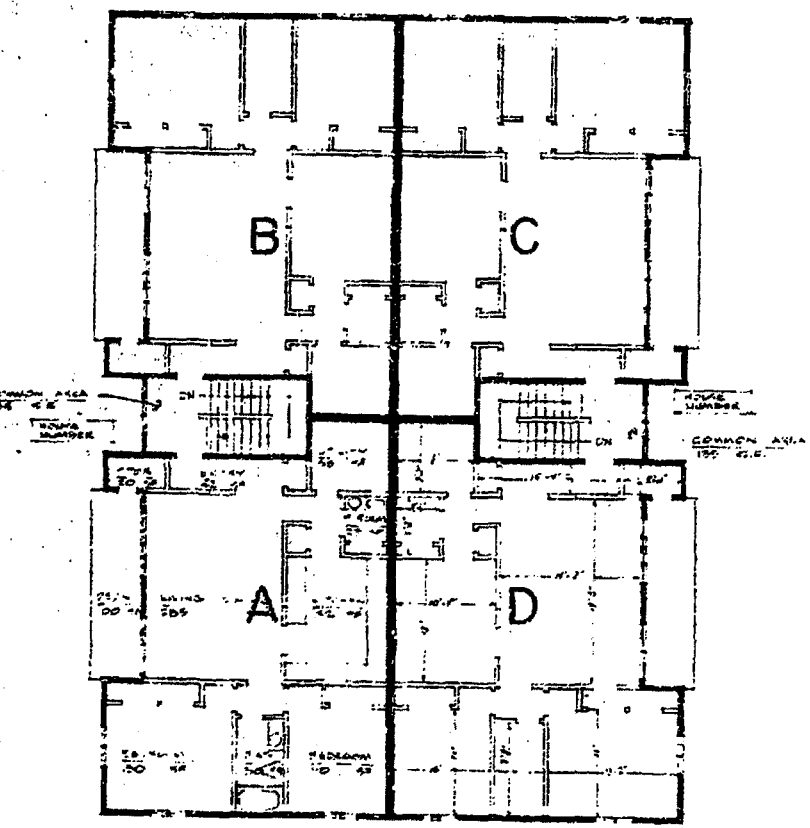




SCALE: 1" = 40'
0 20 40 80 120 Feet

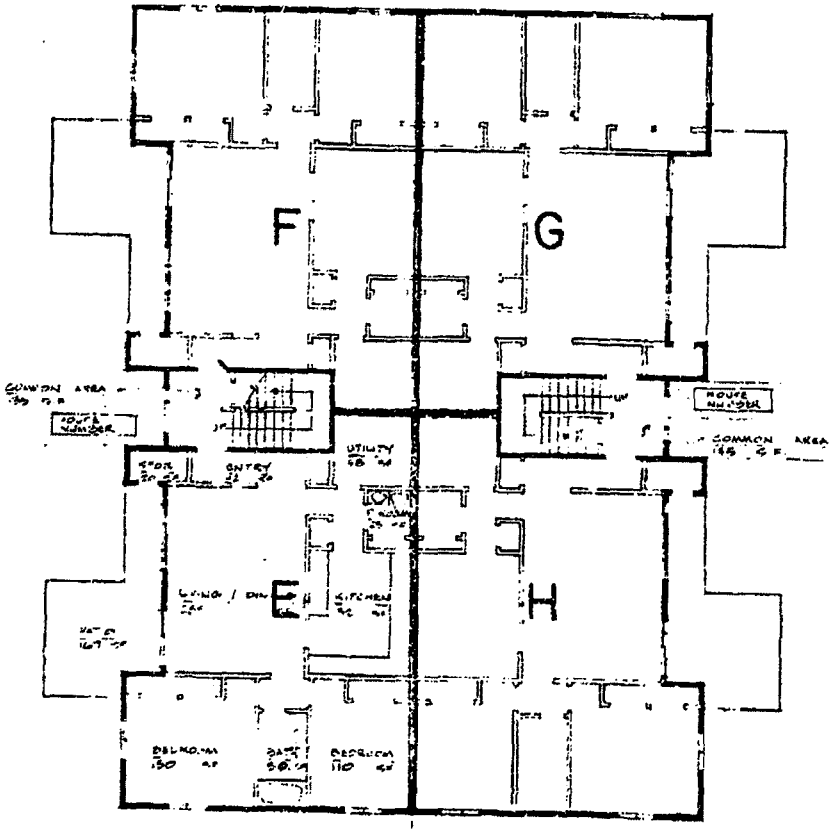
THIS INSTRUMENT DRAFTED BY MARK J. WEBER OF HINZE & ASSOCIATES, INC.

SHEET 1 of 2

VOL 919 PAGE 966 EXHIBIT A-2



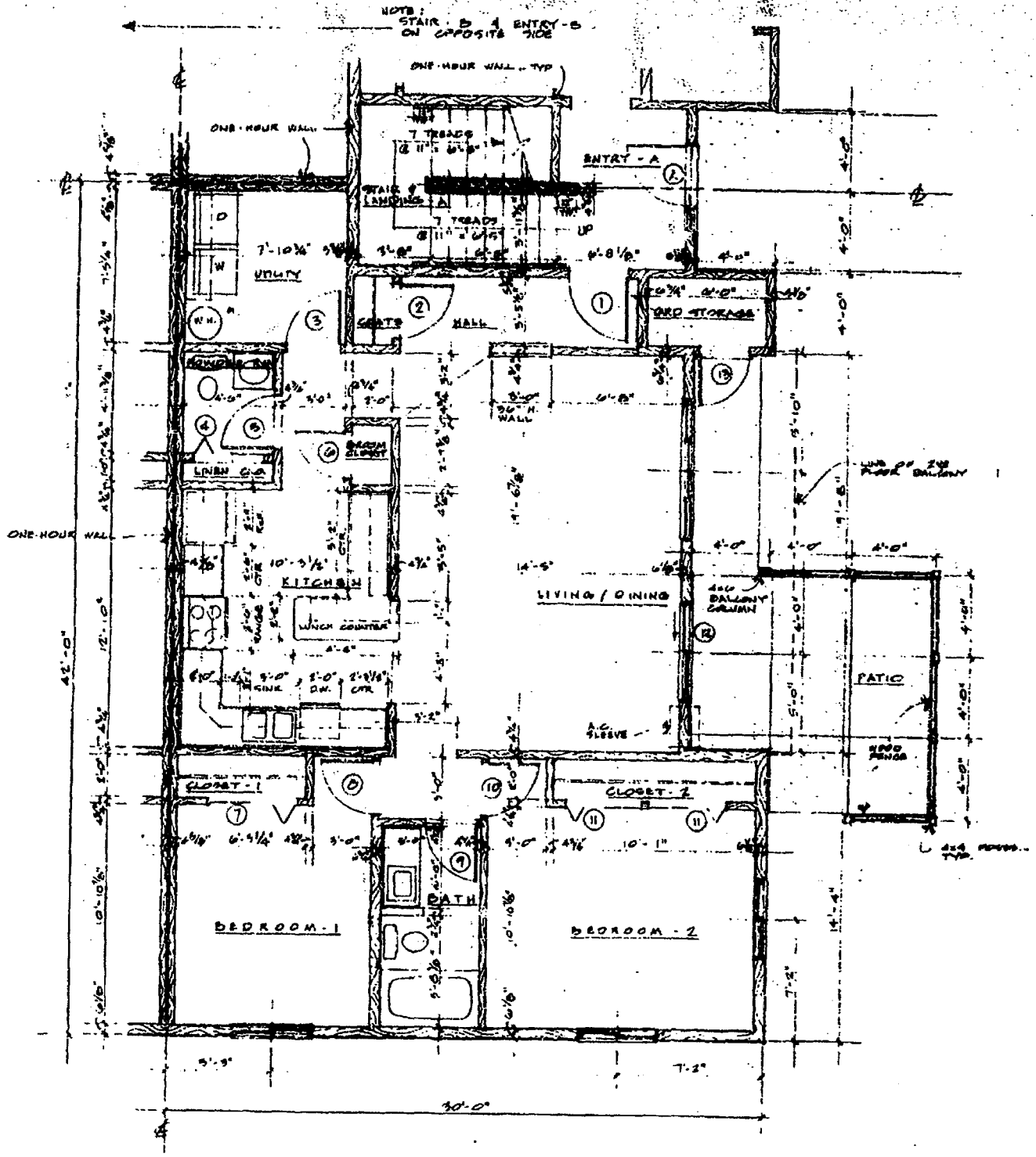

SECOND FLOOR PLAN
WEST MEADOWS CONDOMINIUMS




FIRST FLOOR PLAN
WEST MEADOWS CONDOMINIUMS

SHEET 2 of 2

Exhibit B




TYPICAL
FLOOR PLAN
1/4" = 1'-0"

SHEET 2 of 2