

200400039239
Filed for Record in
HENRICKS COUNTY IN
THERESA D LYNCH
12-29-2004 At 09:32 am.
DECLARATION 189.00
OR Book 554 Page 1126 - 1215

DECLARATION OF CONDOMINIUM OWNERSHIP

FOR

THE SPRINGS AT SARATOGA CONDOMINIUMS

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**DECLARATION OF
CONDOMINIUM OWNERSHIP**

The Springs at Saratoga Condominiums

This Declaration of Condominium Ownership for The Springs at Saratoga Condominiums is made this 5th day of November, 2004, by The Springs at Saratoga, LLC (the "Declarant").

WITNESSETH:

WHEREAS, the following facts are true:

A. Declarant is the sole owner of the fee simple title to certain real estate, located in Hendricks County, Indiana, more particularly described in Exhibit A attached hereto and made a part hereof (the "Real Estate").

B. Declarant is the sole owner of the fee simple title to that portion of the Real Estate more particularly described in Exhibit B attached hereto and made a part hereof (hereinafter referred to as the "Tract" or "Phase I").

C. Declarant, by execution of this Declaration, hereby creates The Springs of Saratoga Condominiums upon the Tract, subject to the provisions of the Condominium Law of the State of Indiana under the terms and conditions of this Declaration.

NOW, THEREFORE, Declarant hereby makes this Declaration as follows:

1. **Definitions.** The following terms, as used in this Declaration, unless the context clearly requires otherwise, shall mean the following:

(a) "Act" means the Condominium Law of the State of Indiana, Indiana Code §32-25-1 *et. seq.*, as such Act may be amended. The Act is incorporated herein by reference.

(b) "Applicable Date" means the date determined pursuant to Section 3.02 of the By-Laws.

(c) "Articles" or "Articles of Incorporation" means the Articles of Incorporation of the Corporation, as hereinafter defined. The Articles of Incorporation are incorporated herein by reference.

(d) "Board of Directors" or "Board" means the governing body of the Corporation being the initial Board of Directors referred to in the By-Laws or any subsequent Board of Directors elected by the Members in accordance with the By-Laws of the Corporation.

(e) "Building" means any structure on the Tract in which one or more Condominium Units are located. The Buildings are more particularly described and identified on the Plans and in paragraph 3 of this Declaration. "Building" also includes any additional structure containing one or more Condominium Units which may be submitted and subjected to the Act and this Declaration by Supplemental Declaration as herein provided, and will be identified in Supplemental Declaration and on plans that will be filed therewith.

(f) "By-Laws" means the Code of By-Laws of the Corporation providing for the administration and management of the Property and restrictions on its use, as required by and in conformity with the Act. A true copy of the By-Laws is attached to this Declaration as Exhibit C and incorporated herein by reference.

(g) "Common Areas" means the common areas and facilities appurtenant to the Property as defined in paragraph 6 of this Declaration.

(h) "Common Expense" means expenses for administration of the Corporation, and expenses for the upkeep, maintenance, repair and replacement of the Common Area and the Limited Common Areas (to the extent provided herein), and all sums lawfully assessed against the Members of the Corporation, or as declared by the Act, this Declaration or the By-Laws, and which at least addresses the following:

- that portion of the private roads located within the Exhibit "B" real estate made subject to this Declaration and any portion of the private roads located within the Exhibit "A" real estate.
- the Association's prorate share of the operations, maintenance, upkeep and replacement of the Recreational Facilities available to the Owners.

(i) "Condominium Unit" means each one of the living units constituting The Springs at Saratoga, each individual living unit being more particularly described and identified on the Plans and in paragraphs 4 and 5 of this Declaration, and each additional living unit which may be submitted and subjected to the Act and this Declaration by supplemental declarations as herein provided. "Condominium Unit" includes the undivided interest in the Common Areas and Limited Common Areas appertaining to such unit.

(j) "Co-owners" means the owners of all the Condominium Units.

(k) "Corporation" means The Springs at Saratoga Owners Association, Inc., its successors and assigns, a not-for-profit corporation, whose Members shall be the Owners of Condominium Units, such Corporation being more particularly described in Paragraph 12 of this Declaration.

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(l) "Declarant" means and refers to The Springs at Saratoga, LLC, an Indiana limited liability company, and any successors and assigns of it whom it designates in one or more written recorded instruments, to have the rights of Declarant hereunder including, but not limited to, any mortgagee acquiring title to any portion of the Tract pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant.

(m) "Insurance Trustee" means such bank with trust powers authorized to do business in Hendricks County, Indiana as the Board of Directors may designate for the custody and disposition, as herein or in the By-Laws provided, of insurance proceeds and condemnation awards.

(n) "Limited Common Areas" means the limited common areas and facilities as defined in paragraph 7 of this Declaration or those parts of the Common Areas limited to the use of certain Condominium Units.

(o) "Majority of Mortgagees" means those Mortgagees who first mortgages on Condominium Units to which are allocated at least fifty-one percent (51%) of the Percentage Vote allocated to Mortgaged Units.

(p) "Majority of Owners" and "Majority of Percentage Vote" means the owners entitled to cast more than fifty percent (50%) of the Percentage Votes in accordance with the applicable percentages set forth in this Declaration.

(q) "Member" means a member of the Corporation.

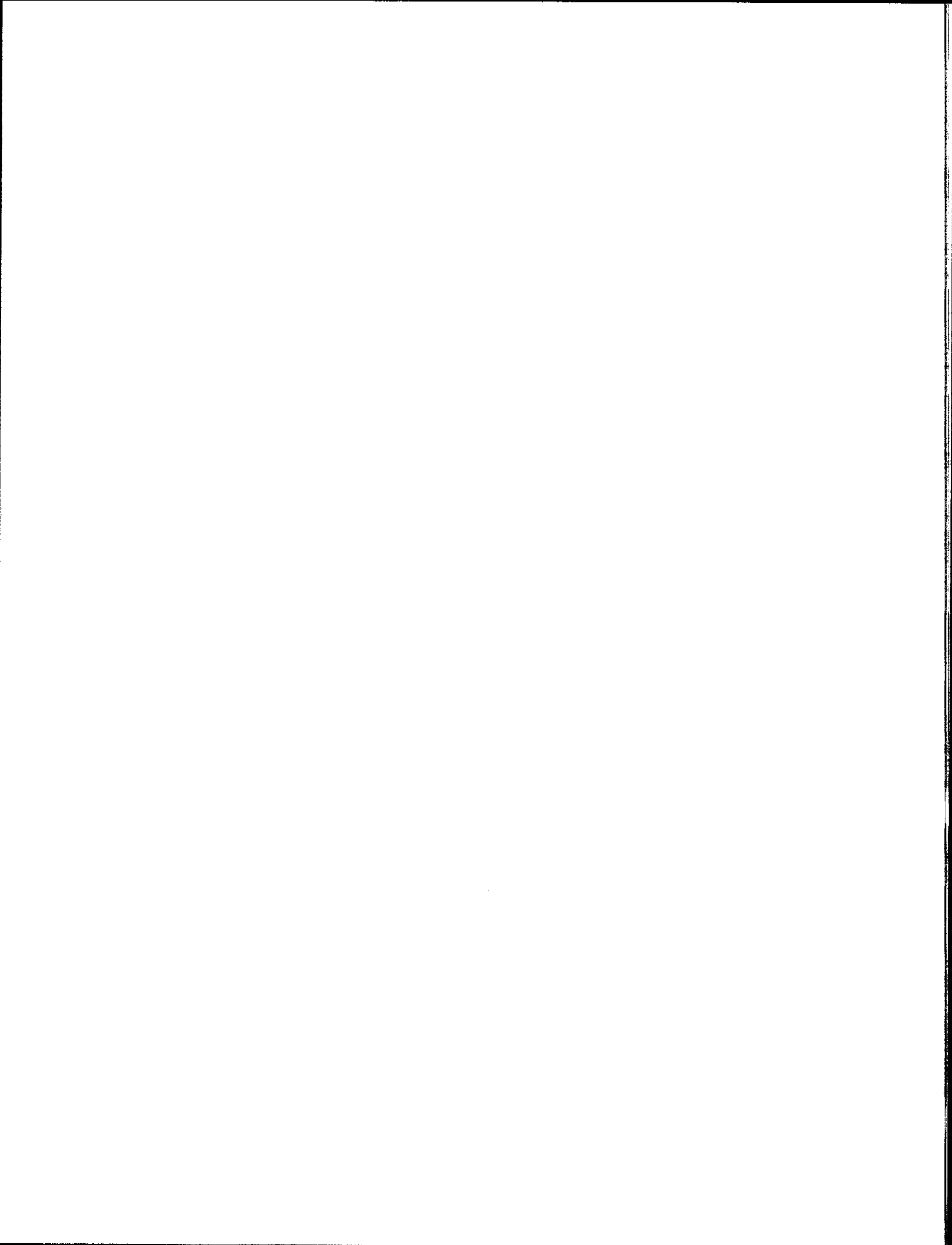
(r) "Mortgagee" means the holder of a first mortgage lien on a Condominium Unit.

(s) "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns the fee simple title to a Condominium Unit.

(t) "Percentage Interest" means the percentage of undivided interest in the fee simple title to the Common Areas and Limited Common Areas appertaining to each Condominium Unit as specifically expressed in paragraphs 4 and 8 of this Declaration.

(u) "Percentage Vote" means that percentage of the total vote accruing to all the Condominium Units which is appurtenant to each particular Condominium Unit and accrues to the Owner thereof. The Percentage Vote to which each Owner shall be entitled on any matter upon which the Owners are entitled to vote shall be the same percentage as the Percentage Interest appurtenant to such Owner's Condominium Unit.

(v) "Person" means an individual, firm, corporation, partnership, associate, trust, limited liability company, or other legal entity, or any combination thereof.



(w) "Phase I" means the real estate described in paragraph B of the recitals above.

(x) "Plans" means the floor and building plans and elevations of the Buildings and Condominium Units prepared by Banning Engineering, certified by Brian L. Haggard, a registered land surveyor, under date of September 14, 2004, and a site plan of the Tract and Buildings prepared by Banning Engineering, certified by Brian L. Haggard, a registered land surveyor, under date of September 14, 2004, all of which are incorporated herein by reference and any supplemental plans that are prepared and filed in connection with the Real Estate.

(y) "Property" means the Tract and appurtenant easements, the Condominium Units, the Buildings, garages improvements and property of every kind and nature whatsoever, real, personal and mixed, located upon the Tract and used in connection with the operation, use and enjoyment of The Springs at Saratoga, but does not include the personal property of Owners.

(z) "Restoration" means construction, reconstruction, building, or rebuilding of the Buildings, the Condominium Units, the Common Areas and the Limited Common Areas to not less than the same condition as they existed immediately prior to any loss, damage or destruction with the same type of architecture and using, where appropriate, new materials of like kind and quality.

(aa) "The Springs at Saratoga" means the name by which the Tract, which is the subject of this Declaration and which the Corporation manages, shall be known.

(bb) "Super Majority" means those Owners eligible to cast not less than sixty-seven percent (67%) in the aggregate of the Percentage Vote eligible to be cast by the Owners.

(cc) "Supplemental Declaration" means any supplement or amendment to this Declaration that may be recorded by Declarant and that extends the provisions of this Declaration to any part of the Real Estate or Future Development Area and contains such complementary or supplementary provisions for such part of the Real Estate as are required or permitted by the Act or this Declaration.

(dd) "Tract" means the real estate described in paragraph B of the recitals above and such other portions of the Real Estate which have, as of any given time, been subjected to the Act and this Declaration either by this Declaration or a supplemental declaration as herein provided.

2. Declaration. Declarant hereby expressly declares that the Property shall be a condominium project in accordance with the provisions of the Act.

3. Description of Buildings. There will be two (2) Buildings two (2) stories in height, containing a total of twelve (12) Condominium Units on the Tract as of the date hereof,

and the clubhouse and swimming pool as shown on the Plans. The Buildings are identified and referred to in the Plans and in the Declaration as Buildings 9 and 12.

4. Legal Description and Percentage Interest. Each Condominium Unit is identified on the plans by a Building number and Unit number. The legal description for each Condominium Unit shall consist of the Building number and Unit number as shown on the Plans, and shall be stated as "Building __, Unit __ in The Springs at Saratoga Condominiums." The Percentage Interest of each Owner in the Common Areas and Limited Common Areas as hereinafter defined shall be that percentage interest included in each Condominium Unit as set forth on Exhibit D attached hereto and made a part hereof.

5. Description of Condominium Units.

(a) Appurtenances. Each Condominium Unit shall consist of all space within the boundaries thereof, as hereinafter defined, and all portions of the Building situated within such boundaries, including but not limited to all fixtures, facilities, utilities, equipment, appliances, and structural components designed and intended solely and exclusively for the enjoyment, use and benefit of the Condominium Unit wherein the same are located, or to which they are attached, but excluding therefrom that designed or intended for the use, benefit, support, safety or enjoyment of any other Condominium Unit or which may be necessary for the safety, support, maintenance, use, and operation of any of the Buildings or which are normally designed for common use; provided, however, that all fixtures, equipment, appliances, and cabinets designed or intended for the exclusive enjoyment, use and benefit of a Condominium Unit shall constitute a part of such Condominium Unit, whether or not the same are located within or partly within the boundaries of such Condominium Unit. Also, the interior sides and surfaces of all doors and windows in the perimeter walls of a Condominium Unit, whether or not located within or partly within the boundaries of a Condominium Unit, and all interior walls and all of the floors and ceilings within the boundaries of a Condominium Unit, are considered part of the Condominium Unit.

(b) Boundaries. The boundaries of each Condominium Unit shall be as shown on the Plans without regard to the existing construction measured between the interior unfinished surface of the floors, roofs and perimeter walls of each Condominium Unit. In the event any horizontal or vertical or other boundary line as shown on the Plans does not coincide with the actual location of the respective wall, floor or roof surface of the Condominium Unit because of inexactness of construction, settling after construction, or for any other reasons, the boundary lines of each Condominium Unit shall be deemed to be and treated for purposes of ownership, occupancy, possession, maintenance, decoration, use and enjoyment, as in accordance with the actual existing construction. In such case, permanent appurtenant easements for exclusive use shall exist in favor of the Owner of each Condominium Unit in and to such space lying outside of the actual boundary lines of the Condominium Unit, but within the appropriate wall, floor or roof surfaces of the Condominium Unit.

6. Common Areas and Facilities. "Common Areas" means (1) the Tract, (2) the foundations, columns, girders, beams, supports and exterior surfaces of roofs of the Buildings, (3) the yards, gardens, sidewalks and parking areas, except to the extent the same are otherwise classified and defined herein as part of the Condominium Unit or Limited Common Areas, (4) central electricity, gas, water, air conditioning and sanitary sewer serving the Buildings (including those located in the interior of the Building), if any, (5) exterior lighting fixtures and electrical service lighting the exterior of the Buildings unless separately metered to a particular Condominium Unit, (6) pipes, ducts, electrical wiring and conduits and public utilities lines which serve more than one Condominium Unit, (7) all streets or interior access drives designated on the Plans as Common Area, (8) floors, roofs and exterior perimeter walls of the Buildings, except to the extent the same are otherwise classified and defined herein as part of the Condominium Unit or Limited Common Areas, and (9) all facilities and appurtenances located outside of the boundary lines of the Condominium Units, except those areas and facilities expressly classified and defined herein as Limited Common Areas or as part of the Condominium Unit.

7. Limited Common Areas and Facilities. Limited Common Areas and those Condominium Units to which use thereof is limited are as follows:

(a) The halls, corridors, lobbies, stairs, stairways, entrances and exits of each Building, if any, (except those located within the interior of Condominium Units) shall be limited to the use of the Condominium Units of such Building served by such halls, corridors, lobbies, stairs, stairways, entrances, and exits.

(b) Balconies, patios, porches, storage areas and sidewalks serving a particular Condominium Unit shall be limited to the exclusive use of the Condominium Unit to which they are attached or appertain.

(c) The exterior sides and surfaces of doors, windows and frames surrounding the same in the perimeter walls in each Condominium Unit shall be limited to the exclusive use of the Condominium Unit to which they appertain.

(d) Any other areas designated and shown on the Plans as Limited Common Areas shall be limited to the Condominium Unit or Condominium Units to which they appertain as shown on the Plans.

8. Ownership of Common Areas and Percentage Interest. Each Owner shall have an undivided interest in the Common Areas and Limited Common Areas, as tenants in common with all other Owners, equal to his Condominium Unit's Percentage Interest. The Percentage Interest in the Common Areas and Limited Common Areas appertaining to each Condominium Unit is set forth in Paragraph 4 of this Declaration. The Percentage Interest of each Condominium Unit shall be a percentage equal to the number of square feet per Condominium Unit divided by the total number of square feet for all of the Condominium Units which, from time to time, have been submitted and subjected to the Act and this Declaration as herein provided and which constitute a part of The Springs at Saratoga. Except as otherwise provided or permitted herein, the Percentage Interest appertaining to each separate Condominium Unit in

the Common Areas and Limited Common Areas shall be of a permanent nature and shall not be altered without the unanimous consent of all the Owners and Mortgagees and then only if in compliance with all requirements of the Act.

The Percentage Interest appertaining to each Condominium Unit shall also be the Percentage Vote allocable to the Owner thereof in all matters with respect to The Springs at Saratoga, and the Corporation upon which the Co-owners are entitled to vote.

9. Encroachments and Easements for Common Areas. If, by reason of the location, construction, settling or shifting of a Building, any Common Area or Limited Area now encroaches or shall hereafter encroach upon any Condominium Unit, then in such event, an easement shall be deemed to exist and run to the Co-owners and the Corporation for the maintenance, use and enjoyment of such Common Area or Limited Area.

Each Owner shall have an easement in common with each other Owner to use all pipes, wires, ducts, cables, conduits, utility lines and other common facilities located in any of the other Condominium Units and serving his Condominium Unit.

Each Owner shall have the right of ingress and egress from such Owner's Condominium Unit with such right being perpetual and appurtenant to the ownership of the Condominium Unit.

10. Real Estate Taxes. Real estate taxes are to be separately assessed and taxed to each Condominium Unit as provided in the Act. In the event that for any year real estate taxes are not separately assessed and taxed to each Condominium Unit, but are assessed and taxed on the Property (or the Property and any other portions of the Real Estate) as a whole, then each Owner shall pay his proportionate share of such taxes to the extent attributable to the Property in accordance with his respective Percentage Interest.

11. Utilities. Each Owner shall pay for his own utilities which are separately metered. Utilities which are not separately metered shall be treated as and paid as part of the Common Expenses, unless otherwise agreed by a majority of the Percentage Vote of Co-owners.

12. Association of Owners. Subject to the rights of Declarant reserved in paragraph 25 hereof and obligations of the Owners, the maintenance, repair, upkeep, replacement, administration, management and operation of the Property shall be by the Corporation. Each Owner of a Condominium Unit shall, automatically upon becoming an owner of a Condominium Unit, be and become a member of the Corporation and shall remain a member until such time as his ownership ceases, but membership shall terminate when such person ceases to be an Owner, and will be transferred to the new Owner.

The Corporation shall elect a Board of Directors annually (except for an Initial Board of Directors defined in the By-Laws) in accordance with and as prescribed by the By-Laws. Each Owner shall be entitled to cast his Percentage Vote for the election of the Board of Directors, except for such Initial Board of Directors who shall serve for the period provided in the By-Laws. Each person serving on the Initial Board of Directors, whether as an original member thereof or as a member thereof appointed by Declarant to fill a vacancy, shall be deemed a

member of the Corporation and an Owner solely for the purpose of qualifying to act as a member of the Board of Directors and for no other purpose. No such person serving on the Initial Board of Directors shall be deemed or considered a member of the Corporation nor an Owner of a Condominium Unit for any other purpose (unless he is actually an Owner of a Condominium Unit and thereby a member of the Corporation).

The Board of Directors shall be the governing body of the Corporation, representing all of the Owners in providing for the management, administration, operation, maintenance, repair, replacement and upkeep of the Property exclusive of the Condominium Units. Subject to the provisions of paragraph 25 of the Declaration and Section 3.07(a) of the By-Laws, the Board of Directors shall at all times provide for professional management of The Springs at Saratoga unless all Mortgagees give their prior written approval for self-management.

13. Maintenance, Repairs and Replacement of Condominium Units, Common Areas etc.

(a) Condominium Units. Each Owner shall at its own expense, be responsible for the maintenance, repair, decoration and replacement of its own Condominium Unit, except as may otherwise be provided herein. Each Owner shall promptly perform all maintenance and repair within its Condominium Unit which, if neglected, might adversely affect the Property. In addition, each Owner shall furnish, and shall be responsible at his own expense for the maintenance, repairs and replacements of his Condominium Unit and appurtenant Limited Common Areas, and all equipment serving the same except to the extent otherwise provided herein.

(b) Maintenance Exceptions. Maintenance, repairs and replacements for which each Owner is not individually responsible are water lines, gas lines, plumbing and electric lines that service the Owner's Condominium Unit only and are located within or without exterior walls of the Condominium Unit including any lines in the area from below the floor to above the ceiling if they are within an extension of the exterior walls of the Condominium Unit, except for total replacement of the mechanical components of fixtures serving a single Condominium Unit such as a lavatory, toilet, bath, whirlpool, etc. Such foregoing mechanical maintenance by the Association is for usual and ordinary mechanical maintenance of original construction. Where such repair is the result of willful or negligent misuse by the Owner, then a reasonable service charge shall be added to the Owner's next payment of the regular Assessment collectable and enforceable as provided for herein.

(c) Appurtenant Maintenance. Each Owner shall be responsible for the interior surface of the doors, screens and windows which are part of such Owner's Condominium Unit, interior grouting and/or caulking and all other accessories appurtenant to the Condominium Unit or belonging to the Owner thereof. In the event that the maintenance or repair of any Condominium Unit is reasonably necessary, in the discretion of the Board, to protect the Common Areas or Limited Common Areas, or to preserve the appearance or value of the Property, or is otherwise in the interest of the general welfare of the Owners, the Board shall have the power to undertake such

maintenance or repair, but no such maintenance or repair shall be undertaken without a resolution by the Board and reasonable written notice to the Owner of the Condominium Unit proposed to be maintained. The cost of any such maintenance or repair shall be assessed against the Condominium Unit on which such maintenance or repair is performed and, when so assessed, a statement for the amount thereof shall be rendered promptly to the then Owner of the Condominium Unit at which time the Assessment shall become due and payable and a continuing lien and obligation of said Owner in all respects as provided in Article V of the By-Laws.

(d) Certain Limited Common Areas. Each Owner shall, at its own expense, be responsible for the replacement of the air conditioning compressor, installed to service such Owner's Condominium Unit, and for the decoration and general maintenance of any balcony, patio, deck, landscape area or porch to which there is direct access from the interior of such Condominium Unit. Any balcony, patio, deck, or porch shall be kept free and clear of snow, ice and any other accumulation by the Owner of such Condominium Unit who shall also make all repairs thereto caused or permitted by his negligence, misuse or neglect. All other repairs or replacements in, to or with respect to such balcony, patio, deck, landscaped area or porch shall be made by the Corporation and the cost thereof shall be a Common Expense.

(e) Common Areas and Limited Common Areas. All maintenance, repairs and replacements to the Common Areas (except as otherwise provided in this Declaration, a Supplemental Declaration, or the By-Laws) shall be furnished by the Corporation as part of the Common Expenses. The Board of Directors may adopt rules and regulations concerning maintenance, repairs, use and enjoyment of the Common Areas and Limited Common Areas.

(f) Right of Entry. The Board of Directors, the managing Agent, as hereinafter defined, or any other Person authorized by the Board of the Managing Agent shall have the right, at reasonable times and upon reasonable prior notice (except in cases of emergency in which event notice shall be required), to enter into each individual Condominium Unit for the purposes of inspection of the Common Areas and Limited Common Areas appurtenant thereto and replacement, repair and maintenance of the same.

14. Alterations, Additions and Improvements. No Owner shall make any alterations or additions to or which would affect the Common Areas or Limited Common Areas without the prior written approval of the Board of Directors, nor shall any Owner make any alteration in or to his respective Condominium Unit and within the boundaries thereof which would affect the safety or structural integrity of the Building in which the Condominium Unit is located nor shall any Owner change the color of any of the Common Areas or Limited Common Areas without the prior written approval of the Board of Directors. Declarant reserves the right to change the interior design and arrangement of all Condominium Units and alter the boundaries between Condominium Units so long as Declarant owns the Condominium Units so altered. No such change shall increase the number of Condominium Units. If Declarant shall make any changes in the Condominium Units so authorized, such changes shall be reflected by a supplement to the

Plans executed by the Declarant and recorded in the Office of the Recorder of Hendricks County, Indiana, if necessary. Such supplement to the Plans need not be approved by the Corporation or any other Owners.

15. Insurance Coverage. The Board of Directors on behalf of the Owners shall obtain, maintain and pay the premiums upon, as a Common Expense, and keep in full force and effect at all times the following insurance coverage underwritten by companies duly authorized to do business in Indiana who have at least a "B" or better general policyholder's rating or a "6" or better financial rating in Best's Insurance Report or a "BBB" or better rating in Standard & Poor's Insurer Solvency Review:

(a) Casualty or physical damage insurance in an amount equal to the full insurable replacement cost of all buildings and property owned by the Corporation with either a "guaranteed replacement cost" endorsement or a "replacement cost" endorsement and "inflation guard" endorsements, and if the policy includes a co-insurance clause an "agreed amount", without deduction or allowance for depreciation (as determined annually by the Board with the assistance of the insurance company affording such coverage), such coverage to afford protection against the following:

(i) loss or damage by fire or other hazards covered by the standard extended coverage endorsement together with coverage for Common Expenses with respect to Condominium Units, during any period of repair or construction;

(ii) such other risks as are customarily covered by an "all risk" endorsement or "broad form" coverage with respect to projects similar in construction, location and use, including, but not limited to, vandalism, malicious mischief, windstorm, water damage, machinery, explosion or damage, and such other insurance as the Board may from time to time determine; and

(iii) such policy shall also include a Special Condominium Endorsement.

(b) Comprehensive public liability insurance in such amounts as may be considered appropriate by the Board including, but not limited to, water damage, legal liability, hired automobile, non-owned automobile, and any and all other liability incident to the ownership and/or use of the Property or any portion thereof. Such coverage shall be for at least One Million Dollars (\$1,000,000) for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under the insurance policy shall include, without limitation, legal liability of the operation, maintenance or use of the Common Areas and Limited Common Areas, and legal liability arising out of lawsuits related to employment contracts of the Association.

(i) Such liability insurance shall contain no provisions relieving the insurer from liability for loss occurring while the hazard is

increased, whether or not within the knowledge or control of the Board, or because of any breach of any warranty or condition or any other act or neglect by the Board or any Owner or any other Person under either of them.

(ii) Such liability insurance shall provide that such policy may not be canceled or substantially modified (whether or not requested by the Board) except by the insurer giving at least thirty (30) days prior written notice thereof to the Board, the Insurance Trustee, all Owners, all Mortgagees and every other Person in interest who shall have requested such notice of the insurer

(c) Workmen's compensation and employer's liability insurance in respect to employees of the Corporation in the amounts and in the form necessary to comply with any applicable law.

(d) Such other policies of insurance, including insurance for the other risks of a similar or dissimilar nature, as are or shall hereafter be considered appropriate by the Board of Directors.

(e) The provisions of this Paragraph 15 shall not be construed to limit the power or authority of the Board to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Corporation of the Board may deem appropriate from time to time.

(f) Definitions. As used in this Paragraph 15, the term "all buildings and improvements" means, without limitation, the Common Areas, Limited Common Areas, and the standard separation walls, fixtures, pipes, wires, conduits and installations installed in Condominium Units as of the date of the initial sale by Declarant, as shown on the Plans as amended from time to time, and replacements thereof, but does not mean any fixtures, alterations, installations or additions in or to a Condominium Unit made by an individual Owner of the Condominium Unit and not shown on the Plans.

(g) Form. Casualty insurance shall be carried in a form or forms naming as the insured the Association for the use and benefit of the Owners according to the loss or damage to their respective Condominium Units and Percentage Interest and payable in case of loss to the Insurance Trustee. Each such policy of insurance shall:

(i) provide that the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim any right of set-off, counterclaim, apportionment, proration, or contribution by reason on any other insurance obtained by or for any Owner;

(ii) contain no provisions relieving the insurer from liability for loss occurring while the hazard to such building is increased, whether or not within the knowledge or control of the Board, or because of any

breach of warranty or condition or any other act or neglect by the Board or any Owner or any other Person under either of them;

(iii) provide that such Policy may not be canceled or substantially modified (whether or not requested by the Board) except by the insurer giving at least thirty (30) days prior written notice thereof to the Board, the Insurance Trustee, all Owners, all Mortgagees and every other Person in interest who shall have requested such notice of the insurer;

(iv) contain a waiver by the insurer of any right of subrogation to any right of the Board or Owners against any of them or any other Person under them;

(v) provide that notwithstanding any provisions thereof giving the insurer an election to restore damage in lieu of cash settlement, such option shall not be exercisable in the event the owners do not elect to restore pursuant to Paragraph 16 of the Declaration;

(vi) provide that the policy is primary in the event an Owner has other insurance covering the same loss;

(vii) contain a standard mortgagee clause which shall:

(1) provide that any reference to a mortgagee in such policy shall mean and include any Mortgagee, whether or not named therein and, where applicable, name as Mortgagee Federal National Mortgage Association or Federal Home Loan Mortgage Corporation or their respective servicers, successors and assigns;

(2) provide that such insurance as to the interest to any Mortgagee shall not be invalidated by any act or neglect of the Board or any Owner, or any Persons under any of them;

(3) waive any provisions invalidating such mortgagee clauses by reason of failure of any Mortgagee to notify the insurer of any hazardous use or vacancy, and requirement that the Mortgagee pay premium thereon, and any contribution clause;

(4) provide that without affecting any protection afforded by such mortgagee clause, any proceeds payable under such policy shall be payable to the Insurance Trustee; and

(5) Public liability and property damage insurance shall be carried in a form or forms naming as the insured the Board of Directors as trustee for each individual Owner, the Corporation,

the Board of Directors, the Managing Agent, and any Person acting on behalf of the Corporation and providing for payment of any proceeds therefrom to the Insurance Trustee. The Board shall promptly upon effecting such insurance coverage give written notice to each Owner thereof a current certificate of such insurance, without prejudice to the right of the Owner to maintain additional public liability insurance for his Condominium Unit.

(viii) such policies shall have a deductible equal to the lesser of Ten Thousand Dollars (\$10,000.00) or one percent (1%) of such policy's face amount.

(h) Allocation of Insurance Proceeds. In the event of damage or destruction by fire or other cause to any part of the Property covered by insurance written in the name of the Board as trustee for Owners and their Mortgagees, the following provisions shall apply:

(i) Common Areas and Limited Areas. Proceeds on account of damage to Common Areas and Limited Common Areas shall be allocated among the Owners in accordance with their respective Percentage Interests;

(ii) Condominium Units. Proceeds on account of damage to Condominium Units shall be allocated as follows:

(1) If the Building in which the damaged Condominium Unit is located is to be restored, insurance proceeds shall be allocated to such Condominium Unit in the proportion that the cost of Restoration of such Condominium Unit bears to the cost of Restoration to all damaged Condominium Units, such cost to be determined by the Board. In determining such costs, the Board shall not take into consideration the cost of repairing any items specifically excluded from insurance coverage pursuant to the provisions of this Paragraph 15.

(2) If the Building in which the damaged Condominium Unit is located is not to be restored, insurance proceeds shall be allocated to such Condominium Unit in accordance with the agreed amount of the replacement cost of such Condominium Unit.

(3) In the event a mortgage endorsement has been issued with respect to a particular Condominium Unit, the amount of the insurance proceeds allocated to the Owner of such Condominium Unit shall be held in trust for the Mortgagee and the Owner of such as their interests may appear, but no Mortgagee shall have the right to determine or participate in the determination

as to whether or not any damaged property shall be restored or repaired, and no Mortgagee shall have any right to apply or have applied to the reduction of the mortgage debt any insurance proceeds except distributions thereof made to the Owner and Mortgagee pursuant to these provisions.

(i) Distribution of Insurance Proceeds. Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the Owners and their Mortgagees as their respective interests appear, in the following manner:

(i) Expense of Trust. All expenses of the Insurance Trustee shall be first paid or provision made therefore.

(ii) Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the costs thereof pursuant to the provisions hereof. Any proceeds remaining after defraying such costs shall be retained by the Association and added to the reserve for replacements established pursuant to the By-Laws except that, with respect to a Condominium Unit in which there was damage to items excluded from insurance coverage pursuant to Paragraph 15(f), the Owner of such Condominium Unit shall be entitled to receive out of such remaining proceeds his prorata share thereof determined according to his Percentage Interest.

(iii) Failure to Reconstruct or Repair. If it is determined that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed in accordance with Section 21 of the Act.

(iv) Certificate. In making distributions to Owners and their Mortgagees, the Insurance Trustee may rely upon a certificate issued by the Board as to the names of the Owners and their respective shares of the distribution, and, with respect to the names of Mortgagees, may rely upon a certificate from an attorney-at-law who, or a title insurance company which, has examined the mortgage records in the office of the Recorder of Hendricks County, Indiana, as to the names of the holders of mortgages of record.

(j) Corporation as Owner's Agent. The Corporation, acting by its Board of Directors, is hereby irrevocably appointed agent for each Owner of any interest in the Property to negotiate all claims arising under insurance policies purchased by the Board, and to execute and deliver releases upon the payment of claims.

(k) Individual Policies-Recommendation of Declarant. Any Owner or Mortgagee may obtain additional insurance (including a "condominium unit-owner's

endorsement" acquired at the expense of the Lender) at his own expense. Such insurance shall provide that it shall be without contribution as against the insurance maintained by the Board. Such insurance shall contain the same waiver of subrogation provision as that set forth in Paragraph 15(g). If an insured loss is sustained on the Property and the amount of insurance proceeds that would otherwise be payable to the Insurance Trustee is reduced due to proration of insurance purchased pursuant to this Paragraph, the Owner shall assign the proceeds of the personally purchased insurance, to the extent of the amount of the reduction, to the Insurance Trustee to be distributed as provided in Paragraph 15(i). The Declarant recommends that each Owner obtain, in addition to the insurance hereinabove provided to be obtained by the Board of Directors, a policy insuring against loss or damage to personal property used or incidental to the occupancy of the Condominium Unit, vandalism or malicious mischief, theft, personal liability and the like. Such policy should include a "condominium unit owner's endorsement" covering losses to improvements and betterments to the Condominium Unit made or acquired at the expense of the Owner.

(l) Certificates. The Board shall cause to be issued to each Owner, or Mortgagee, a certificate of insurance evidencing the insurance coverage maintained by the Corporation.

16. Casualty and Restoration.

(a) Except as hereinafter provided, damage to or destruction of any Building due to fire or any other casualty or disaster shall be promptly repaired and reconstructed by the Corporation and the proceeds of insurance, if any, shall be applied for that purpose; provided, however, that repair and reconstruction shall not be compulsory in the event of "complete destruction of all of the Buildings" (hereinafter defined) and shall only be done in accordance with the provisions hereinafter set forth. As used herein, the term "complete destruction of all of the Buildings" means a determination, made by a vote of sixty-seven percent (67%) of all Co-owners at a special meeting of the Corporation called for the purpose of making such determination, that total destruction of all of the Buildings has occurred. A special meeting of the Corporation shall be called and held within thirty (30) days after any fire or any other casualty or disaster damaging or destroying any of the Buildings for the purpose of making the determination of whether or not there has been a complete destruction of all of the Buildings. If such a special meeting is not called and held within such thirty (30) day period, or if the determination of whether or not there has been a complete destruction of all the Buildings has not been made within such thirty (30) day period, then it shall be conclusively presumed that the Co-owners determined that there was not a complete destruction of all of the Buildings, and the Corporation shall proceed with repair and reconstruction as herein provided.

In the event of substantial damage to or destruction of any Condominium Unit or any part of the Common Areas, the affected Mortgagee or Mortgagees shall be given timely written notice of such damage or destruction and, notwithstanding any other

provision of the Declaration or By-Laws, the Property shall not be removed from the Act without the approval of fifty-one percent (51%) of the Mortgagees.

(b) If the insurance proceeds, if any, received by the Corporation as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction, or in the event there are no insurance proceeds, and if the Property is not to be removed from the Act, the cost for restoring the damage and repairing and reconstructing the Building or Buildings so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be paid by all of the Owners of Condominium Units so damaged in proportion to the ratio that the damage to such Condominium Unit bears to the total damage of all Condominium Units. Any such amounts payable by the Co-owners shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided herein and in the Act.

(c) For purposes of subparagraph (a) and (b) above, repair, reconstruction and restoration shall mean construction or rebuilding of the Condominium Units to as near as possible the same condition as they existed immediately prior to the damage or destruction and with the same type of architecture.

(d) If, under subparagraph (a) above, it is determined by the Co-owners at the special meeting of the Corporation referred to therein that there has been a complete destruction of all of the Buildings, the Co-owners shall, at said same special meeting, vote to determine whether or not such complete destruction of the Buildings shall be repaired and reconstructed. The Buildings shall not be reconstructed or repaired if it is the determination of the Co-owners at said special meeting that there has been a complete destruction of all of the Buildings unless by a vote of sixty-seven percent (67%) of all of the Co-owners a decision is made to rebuild, reconstruct and repair the Buildings. If sixty-seven percent (67%) of all of the Co-owners vote and decide that the Buildings are to be rebuilt, reconstructed and repaired, the insurance proceeds, if any, received by the Corporation shall be applied and any excess of construction costs over insurance proceeds, if any, shall be contributed and paid as hereinabove provided in subparagraphs (a) and (b).

(e) If, in any case of the complete destruction of all of the Buildings, less than sixty-seven percent (67%) of all of the Co-owners vote in favor of the rebuilding, reconstruction and repair of the Buildings, the Buildings shall not be rebuilt, reconstructed or repaired and, in such event, the Property shall be deemed and considered as to be removed from the provisions of the Act:

(i) the Property shall be deemed to be owned in common by the Owners;

(ii) the undivided interest in the Property owned in common which shall appertain to each Owner shall be the percentage of undivided interest previously owned by such Owner in the Common Areas;

(iii) any liens affecting any of the Condominium Units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the Owner in the Property; and

(iv) The Property shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the Property, if any, shall be considered as one (1) fund and shall be divided among all the Owners in a percentage equal to the percentage of undivided interest owned by each Owner in the Property, after first paying out of the respective shares of the Owners, to the extent sufficient for the purpose, all liens on the undivided interest in the Property owned by each Owner.

(f) Immediately after a fire or other casualty or disaster causing damage to any property for which the Board of Directors or Corporation has the responsibility of maintenance and repair, the Board of Directors shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors desire.

(g) The proceeds of insurance collected on account of any such casualty, and the sums received by the Board of Directors from collections of assessments against Owners on account of such casualty, shall constitute a construction fund which shall be disbursed, if the Building or Buildings are to be reconstructed and repaired, in payment of the costs of reconstruction and repair in the following manner:

(i) If the amount of the estimated cost of reconstruction and repair is One Hundred Thousand Dollars (\$100,000.00) or less, then the construction fund shall be disbursed in payment of such costs upon order of the Board of Directors; provided, however, that upon request of a Mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereinafter provided in the following paragraph (ii).

(ii) If the estimated cost of reconstruction and repair of the Building or other improvement is more than One Hundred Thousand Dollars (\$100,000.00), then the construction fund shall be disbursed in payment of such costs upon approval of an architect qualified to practice in Indiana and employed by the Board of Directors to supervise such work, payment to be made from time to time as the work progresses. The architect shall be required to furnish a certificate giving a brief description of the services and materials furnished by various contractors, subcontractors, materialmen, the architect, or other persons who have rendered services or furnished materials in connection with the work, (1) that the sums requested by them in payment are justly due and owing and that said sums do not exceed the value of the services and materials

furnished; (2) that there is no other outstanding indebtedness known to the said architect for the services and materials described; and (3) that the costs as estimated by said architect for the work remaining to be done subsequent to the date of such certificate, does not exceed the amount of the construction fund remaining after payment of the sum so requested.

(iii) Encroachments upon or in favor of Condominium Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis of a proceeding or action by the Owner upon whose property such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the Buildings were originally constructed. Such encroachments shall be allowed to continue in existence for so long as the Buildings stand.

(iv) In the event that there is any surplus of monies in the construction fund after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums may be retained by the Board of Directors as a reserve or may be used in the maintenance and operation of the Common Areas, or, in the discretion of the Board of Directors it may be distributed to the Owners in the Buildings affected and their Mortgagees who are the beneficial owners of the fund. The action of the Board of Directors in proceeding to repair or reconstruct damage shall not constitute a waiver of any rights against another Owner for committing willful or malicious damage.

(h) If at any time or times during the continuance of this Tract, all or part of the Property shall be taken or condemned by any Person with the power of eminent domain or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions shall be applicable.

(i) Representation. The Corporation, or the Insurance Trustee, if so appointed by the Corporation shall represent the Owners in the condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisitions of the Common Areas, or part thereof, by the condemning authority. Each Owner hereby appoints the Corporation or its designee as attorney-in-fact for the purposes described in this subparagraph.

(ii) Proceeds. All compensation, damages, or other proceeds therefrom, the sum of which is hereinafter called the "Condemnation Award", shall be payable to the Insurance Trustee as trustee for all Owners and their Mortgagees according to their respective interests therein.

(iii) Total Undertaking. In the event that the entire Property is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, this Tract shall terminate. The Condemnation Award shall be apportioned among the Owners in accordance with their respective Percentage Interests and paid into separate accounts, each such account representing one Condominium Unit. Each such account shall remain in the name of the Insurance Trustee and shall be further identified by the legal description of the Condominium Unit and the name of the Owner. From each separate account the Insurance Trustee shall use and disburse the total amount of such accounts, without contribution from one account to the other, first to the payment of valid tax and special assessment liens on the Condominium Unit in favor of any governmental taxing or assessing authority, next to payment of any assessment made pursuant to this Declaration or the By-Laws, next to other holders of liens or encumbrances on the Condominium Unit in the order of priority of their liens, and the balance remaining, if any, to each respective Owner. The Insurance Trustee's compensation in the event of a Taking shall be conducted in a manner consistent with that detailed herein.

(A) the total amount allocated to the taking of or injury to the Common Areas and Limited Common Areas shall be apportioned among the Owners in proportion to their respective Percentage Interests;

(B) the total amount allocated to the severance damages shall be apportioned to the Owners of those Condominium Units that were not taken or condemned;

(C) the respective amounts allocated to the taking of or injury to a particular Condominium Unit and/or improvements an Owner has made within his own Condominium Unit shall be apportioned to the Owner of the particular Condominium Unit involved; and

(D) the total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Insurance Trustee determines to be equitable in the circumstances.

If any allocations of the Condemnation Award is already established in negotiation, judicial decree, or otherwise, then in allocating the Condemnation Award the Insurance Trustee shall employ such allocation to the extent it is relevant and applicable. Distribution of apportioned proceeds shall be made by the Insurance Trustee by checks payable jointly to the respective Owners and their respective Mortgagees, provided that, with respect to an Owner whose Condominium Unit was taken or condemned, there shall first be deducted therefrom and paid or applied by the Insurance Trustee as appropriate such Owner's pro-rata share of the expenses of the Insurance Trustee, the amounts of any

valid tax or special assessment lien in favor of any governmental taxing or assessing authority and any assessments made pursuant of this Declaration or the By-Laws.

(v) Reorganization. In the event a partial taking results in the taking of a complete Condominium Unit, the Owner thereof shall automatically cease to be an Owner and a member of the Association. Thereafter, the Board of Directors shall reallocate to the remaining Owners, pro-rata, the Percentage Interest and Percentage Vote of such Owner. Such reallocation shall be submitted by the Board of Directors to the Owners of the remaining Condominium Units for approval by a Super Majority thereof and appropriate amendment of this Declaration, but any such amendment to be effective must be approved by the Majority Mortgagees.

(vi) Restoration and Repair. Anything to the contrary in this Paragraph 16 notwithstanding, in the event that less than the entire Property is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof and any Condominium Unit, Common Area or Limited Common Area may reasonably be restored or repaired, as determined by an independent licensed architect or engineer employed by the Board of Directors for making such determination or by the Majority of Mortgagees, the amount, if any, of the Condemnation Award allocable to the taking of or injury to the Common Areas and Limited Common Areas and to severance damages shall be applied to the cost of Restoration or repair of such Common Area and/or Limited Common Area, and the amount, if any, allocable to the taking of or injury to a particular Condominium Unit that may be restored or repaired shall be applied to the cost of such Restoration or repair. If any amount of the Condemnation Award then remains such amount shall be allocated and disbursed in accordance with the provisions of subparagraph (d) above. If the amount of the Condemnation Award is insufficient to cover the cost of any such Restoration or repair, the provisions of Paragraph 16(b) shall apply.

(vii) Alternative Valuation in Event of Total Taking. In the event the amount of the Condemnation Award is determined in negotiation, judicial decree or otherwise according to the value of individual Condominium Units as separately determined, the Condemnation Award shall be apportioned, with respect to such Condominium Units, according to the values so determined and not in accordance with the respective Percentage Interests of the Owners; but if the value of the Common Areas and/or Limited Common Areas is determined separately, the amount of the Condemnation Award attributable thereto shall be allocated among the Owners in accordance with their respective Percentage Interests.

17. Covenants and Restrictions. The covenants and restrictions applicable to the use and enjoyment of the Condominium Units and the Common Areas and Limited Common Areas are set forth in the By-Laws, including the limitation that each of the Condominium Units shall be limited to residential use. These covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner, or by the Corporation. Present or future Owners or the Corporation shall be entitled to injunctive relief against any violation or attempted violation of these provisions and shall be entitled to damages for any injuries resulting from any violations thereof, but there shall be no right of reversion or forfeiture of title resulting from such violation. The Corporation shall represent the Owners in any condemnation proceeding or any negotiation settlements or agreements with the condemning authority for acquisition of the Common Areas or any part thereof. In the event of a taking or acquisition of part or all of the Common Areas by a condemning authority, the award or proceeds of settlement shall be payable to the Corporation to be held in trust for the Owners and Mortgagees as their interests may appear.

Notwithstanding anything to the contrary contained herein or in the By-Laws, including, but not limited to any covenants and restrictions set forth in the By-Laws, Declarant shall have, until the date described in Paragraph 21 hereof as the date upon which Declarant's right to expand the Property and The Springs at Saratoga terminates, the right to use and maintain any Condominium Units owned by Declarant, such other portions of the Property (including any clubhouse but not including individual Condominium Units owned by persons other than Declarant) and any portions of the Real Estate not then part of the Property, all of such number and size and at such locations as Declarant in its sole discretion may determine, as Declarant may deem advisable or necessary in its sole discretion to aid in the construction and sale of Condominium Units, or to promote or effect sales of Condominium Units or for the conducting of any business or activity attendant thereto, including, but not limited to model Condominium Units, storage areas, construction yards, signs, construction offices, sales offices, management offices and business offices. Declarant shall have the right to relocate any or all of the same from time to time as it desires. At no time shall any of such facilities so used or maintained by Declarant be or become part of the Common Areas, unless so designated by Declarant, and Declarant shall have the right to remove the same from the Property at any time.

18. Amendment of Declaration. Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

- (a) Notice. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting at which the proposed amendment is considered.
- (b) Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Directors or Owners having in the aggregate at least a majority of the Percentage Vote.
- (c) Meeting. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly called and held in accordance with the provisions of the By-Laws.

(d) Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than seventy-five percent (75%) in the aggregate of the Percentage Vote. In the event any Condominium Unit is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions of the By-Laws.

(e) Special Amendments. No amendment to this Declaration shall be adopted which changes (1) the Percentage Interest with respect to any Condominium Unit or the applicable share of an Owner's liability for the Common Expenses, without the approval of one hundred percent (100%) of the Co-owners and all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of the By-Laws except for changes pursuant to paragraph 21 herein, or (2) the provisions of paragraph 16 of this Declaration with respect to reconstruction or repair in the event of fire or any other casualty or disaster, without the unanimous approval of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of the By-Laws or (3) the provisions of paragraph 12 regarding the obligation of the Board of Directors to provide professional management for The Springs at Saratoga or (4) the provisions of paragraph 15 providing for no priority of an Owner or other person over a Mortgagee as to insurance or condemnation proceeds.

(f) Recording. Each amendment to the Declaration shall be executed by the President and Secretary of the Corporation shall include an affidavit stating that Owners representing seventy-five percent (75%) of the aggregate of Percentage Vote or such other amount as required by this Declaration have approved the amendment and shall be recorded in the Office of the Recorder of Hendricks County, Indiana, and such amendment shall not become effective until so recorded.

(g) Amendments by Declarant Only. Notwithstanding the foregoing or anything elsewhere contained herein, the Declarant shall have the right acting alone and without the consent or approval of the Co-owners, the Corporation, the Board of Directors, any Mortgagees or any other person at any time prior to the Applicable Date to amend or supplement this Declaration from time to time if (i) such amendment or supplement is necessary to conform this Declaration to the Act, as amended from time to time, or (ii) such amendment or supplement is made to implement expansion of the Property and The Springs at Saratoga pursuant to Declarant's reserved rights to expand the same as set forth in paragraph 21 hereof, or (iii) such amendment is necessary to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing & Urban Development, the Federal Housing Association, the Veteran's Administration or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities or (iv) such amendment is necessary to correct clerical or typographical errors or to clarify Declarant's original

intent or (v) such amendment is necessary to implement any changes in The Springs at Saratoga permitted to be made by Declarant under this Declaration.

(h) Special Requirements. Notwithstanding anything to the contrary contained herein, unless specifically controlled by a more restrictive provision under Indiana law or contained herein, the Corporation shall not, without the prior written notice to all Mortgagees and the prior written consent of at least sixty-seven percent (67%) of the Mortgagees (based upon one vote for each mortgage held on a Condominium Unit) and of the Owners (other than Declarant) be entitled to:

(i) by act or omission, seek to abandon or terminate the Property from the Act;

(ii) change the pro rata interest or obligations of any individual Condominium Unit for the purpose of: (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each Condominium Unit in the Common Areas except for expansion rights;

(iii) partition or subdivide any Condominium Unit;

(iv) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas shall not be deemed a transfer within the meaning of this clause);

(v) use hazard insurance proceeds for losses to any part of the Property (whether to Condominium Units or to Common Areas) for other than the repair, replacement or reconstruction of such Property, except as provided in paragraph 16 of this Declaration in case of substantial damage to the Condominium Units.

19. Acceptance and Ratification. All present and future Owners, Mortgagees, tenants and occupants of the Condominium Units shall be subject to and shall comply with the provisions of this Declaration, the Act, the By-Laws appended thereto, and the rules and regulations as adopted by the Board of Directors as each may be amended or supplemented from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Condominium Unit shall constitute an agreement that the provisions of this Declaration, the Act, the By-Laws and rules and regulations as each may be amended or supplemented from time to time are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any person having at anytime any interest or estate in a Condominium Unit or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All persons, corporations, partnerships, trusts, associations, or other legal entities who may occupy, use, enjoy

or control a Condominium Unit or Condominium Units or any part of the Property in any manner shall be subject to the Declaration, the Act, the By-Laws, and the rules and regulations applicable thereto as each may be amended or supplemented from time to time.

20. Negligence. Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents or lessees, (including but not limited to damage caused by any pet or any automobile) to the extent that such expense is not covered by the proceeds of insurance received by the Corporation. An Owner shall pay the amount of any increase in insurance premiums occasioned by his use, misuse, occupancy or abandonment of his Condominium Unit or its appurtenances or of the Common Areas or Limited Common Areas.

21. Expandable Condominium and Declarant's Reserved Rights. The Springs at Saratoga is and shall be an "expandable condominium," as defined in the Act, and Declarant expressly reserves the right and option to expand the Property and The Springs at Saratoga in accordance with the provisions of the Act and the following provisions:

(a) The real estate described and defined herein as the Tract (in paragraph B of the introductory recitals of this Declaration) is the real estate being subjected to The Springs at Saratoga Condominiums by this Declaration and constitutes the first phase of the general plan of development of the Real Estate. The balance of the Real Estate is the area into which expansion of The Springs at Saratoga may be made by Declarant. The maximum number of Condominium Units which may be developed on the Real Estate, including Condominium Units on the Tract as defined in this original Declaration, shall be one hundred seventy-one (171). Subject to said limit as to the maximum number of Condominium Units to be developed on the Real Estate, The Springs at Saratoga may be expanded by Declarant to include additional portions of the Real Estate in one (1) or more additional phases by the execution and recording of one (1) or more amendments or supplements to this Declaration; provided, however, that no single exercise of such right and option of expansion as to any part or parts of the Real Estate shall preclude Declarant from thereafter from time to time further expanding The Springs at Saratoga to include other portions of the Real Estate, and such right and option of expansion may be exercised by Declarant from time to time as to all or any portions of the Real Estate so long as such expansion is done on or before July 31, 2011. Such expansion is entirely at the discretion of Declarant and nothing contained in this original Declaration or otherwise shall require Declarant to expand The Springs at Saratoga beyond the Tract (as defined and described in paragraph B of the introductory recitals of this Declaration) or any other portions of the Real Estate which Declarant may voluntarily and in its sole discretion from time to time subject to this Declaration by amendments or supplements to this Declaration as provided above. Any Condominium Units constructed in such expansion area shall be consistent with the quality of construction of the Condominium Units constructed in the previous phases. Prior to expansion to an additional phase, the improvements in such expansion phase shall be substantially complete.

(b) The Percentage Interest which will appertain to each Condominium Unit in The Springs at Saratoga as The Springs at Saratoga may be expanded from time to time by Declarant in accordance with the terms hereof (including the Percentage Interest which appertains to each of the Condominium Units included in this original Declaration) shall be equal to one (1) divided by the total number of Condominium Units which, from time to time, have been subjected and submitted to this Declaration and then constitute a part of The Springs at Saratoga.

(c) Simultaneously with the recording of amendments or supplements to this Declaration expanding The Springs at Saratoga, Declarant shall record new Plans as required by the Act. Such amendments or supplements to this Declaration shall also include provisions reallocating Percentage Interests so that the Condominium Units depicted on such new Plans shall be allocated Percentage Interests in the Common Areas on the same basis as the Condominium Units depicted in the prior Plans. Such reallocation of Percentage Interests shall vest when the amendment or supplement to the Declaration incorporating those changes has been recorded.

(d) When the amendment or supplement to the Declaration incorporating the addition of Condominium Units or expansion of Common Areas, or both, is recorded, all liens including, but not limited to, mortgage liens shall be released as to the Percentage Interests in the Common Areas described in the Declaration and shall attach to the reallocated Percentage Interests in the Common Areas as though the liens had attached to those Percentage Interests on the date of the recordation of the mortgage or other lien. The Percentage Interest appertaining to additional Condominium Units being added by the amendment or supplement to the Declaration are subject to mortgage liens upon the recordation of the amendment or supplement to the Declaration.

In furtherance of the foregoing, a power coupled with an interest is hereby granted to the Declarant, as attorney-in-fact, to shift the Percentage Interest in the Common Areas appurtenant to each Condominium Unit to the percentages set forth in each such amendment or supplement to this Declaration recorded pursuant to this paragraph 21. Each deed, mortgage or other instrument with respect to a Condominium Unit and the acceptance thereof shall be deemed a grant and acknowledgment of and consent to such power to said attorney-in-fact and shall be deemed to reserve to said attorney-in-fact the power to shift and reallocate from time to time the percentages of ownership in the Common Areas appurtenant to each Condominium Unit to the percentages set forth in each such recorded amendment or supplement to this Declaration.

Each Owner of a Condominium Unit by acceptance of a deed thereto, further acknowledges, consents and agrees, as to each such amendment or supplement to this Declaration that is recorded as follows:

(i) The portion of the Real Estate described in each such amendment or supplement to this Declaration shall be governed in all respects by the provisions of this Declaration.

(ii) The Percentage Interest in the Common Areas appurtenant to each Condominium Unit shall automatically be shifted and reallocated to the extent set forth in each such recorded amendment or supplement to this Declaration and upon the recording of each such amendment or supplement to this Declaration, shall thereby be deemed to be released and divested from such Owner and reconveyed and reallocated among the other Owners as set forth in each such recorded amendment or supplement to this Declaration.

(iii) Each deed, mortgage or other instrument affecting a Condominium Unit shall be deemed given subject to the conditional limitation that the Percentage Interest in the Common Areas appurtenant to each Condominium Unit shall, upon the recording of each amendment or supplement to this Declaration be divested pro tanto to the reduced percentage set forth in such amendment or supplement to this Declaration and vested among the other Owners, mortgagees and others owning an interest in the other Condominium Units in accordance with the terms and percentages of each such recorded amendment or supplement to this Declaration.

(iv) A right of revocation is hereby reserved by the grantor in each such deed, mortgage or other instrument of a Condominium Unit to so amend and reallocate the Percentage Interest in the Common Areas appurtenant to each Condominium Unit.

(v) The Percentage Interest in the Common Areas appurtenant to each Condominium Unit shall include and be deemed to include any additional Common Areas included in land to which The Springs at Saratoga is expanded by a recorded amendment or supplement to this Declaration and each deed, mortgage or other instrument affecting a Condominium Unit shall be deemed to include such Additional Common Areas and the ownership of any such Condominium Unit and lien of any such mortgage shall automatically include and attach to such additional Common Areas as such amendments or supplements to this Declaration are recorded.

(vi) Each Owner shall have a perpetual easement, appurtenant to his Condominium Unit for the use of any such additional Common Areas described in any recorded amendment or supplement to this Declaration, for the purposes therein set forth, except as to any portion the use of which is limited by exclusive easements granted to the Owners (also known as Limited Common Areas) of specific Condominium Units as may be provided in any such amendment or supplement to this Declaration.

(vii) The recording of any such amendment or supplement to this Declaration shall not alter the amount of the lien for expenses assessed to or against a Condominium Unit prior to such recording.

(viii) Each Owner, by acceptance of the deed conveying his Condominium Unit, agrees for himself and all those claiming under him, including mortgagees, that this Declaration and each amendment or supplement to this Declaration are and shall be deemed to be in accordance with the Act and for purposes of this Declaration and the Act, any changes in the respective Percentage Interest in the Common Areas as set forth in each such amendment or supplement to this Declaration shall be deemed to be made by agreement of all Owners.

(ix) Each Owner agrees to execute and deliver such documents necessary or desirable to cause the provisions of this paragraph 21 to comply with the Act as it may be amended from time to time.

22. Granting of Easements. The Board of Directors is granted the authority to grant easements to utility companies (excluding transportation companies but including cable TV companies) upon such terms and conditions and for such consideration as it deems appropriate.

23. Reservation of Rights to the Use of the Common Areas.

(a) If, at any time, and from time to time, any portion of the Real Estate has not been subjected and submitted to this Declaration or to the Act by an amendment or supplement to this Declaration and the owner or owners of such portion or portions of the Real Estate not so subjected to the Declaration or to the Act develop single or multi-family dwelling units on such portions then the owner or owners of such portions of the Real Estate shall have the benefit of the Common Areas or portions thereof, to include the roads, the recreational facilities and associated facilities, for the use of the persons and families living in such dwelling units upon the same terms and conditions as the use of such Common Areas by the owners of the Condominium Units, their families and guests. The owner or owners of such portions of the Real Estate shall then pay for the use of such facilities based on the cost of operation and maintenance of such facilities for the year of such usage and based on the number of living units so entitled to utilize such facilities in proportion to all of the living units on the Real Estate. The owner or owners of such living units shall make payments for the usage provided herein to the Corporation at the same time as the Owners of the Condominium Units pay their assessments to the Corporation.

(b) Declarant shall have, and hereby reserves, an easement over, across, upon, along, in, through and under the Common Areas and, to the extent necessary, the Limited Common Areas, for the purposes of installing, maintaining, repairing, replacing, relocating and otherwise servicing utility equipment, facilities and installations to serve the Property and any portions of the Real Estate which are not part of the Property, to provide access to and ingress and egress to and from the Property and to any such portions of the Real Estate which are not part of the Property, to make improvements to and within the Property and any such portions of the Real Estate which are not part of the Property, and to provide for the rendering of public and quasi-public services to the Property and such portions of the Real Estate which are not part of the Property.

(c) Declarant reserves the right to use any of the Real Estate that is not annexed to or made subject to the Declaration for any permitted purposes.

24. Easement for Utilities and Public and Quasi Public Vehicles. All public and quasi public vehicles, including, but not limited to police, fire and other emergency vehicles, trash and garbage collection, post office vehicles and privately owned delivery vehicles, shall have the right to enter upon the streets, Common Areas and Limited Common Areas of The Springs at Saratoga in the performance of their duties. An easement is also granted to all utilities and their agents for ingress, egress, installation, replacement, repairing and maintaining of such utilities, including, but not limited to water, sewers, gas, telephones and electricity on the Property; provided, however, nothing herein shall permit the installation of sewers, electric lines, water lines, or other utilities, except as initially designed and approved by Declarant or as thereafter may be approved by the Board of Directors. By virtue of this easement the electric and telephone utilities are expressly permitted to erect and maintain the necessary equipment on the Property and to affix and maintain electric and telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of the Buildings.

25. Initial Management. As set forth in the By-Laws, the Initial Board of Directors consists and will consist of persons selected by Declarant. Such Board of Directors may enter into a management agreement with Declarant (or a corporation or other entity affiliated with Declarant) or a third party for a term not to exceed one (1) year with either party having the right to terminate upon ninety (90) days notice [or, upon thirty (30) days notice for cause] under which the management company will provide supervision, fiscal and general management and maintenance of the Common Areas and, to the extent the same is not otherwise the responsibility of Owners of individual Condominium Units, the Limited Common Areas, and, in general, perform all of the duties and obligations of the Corporation. Such management agreement may be renewed by the parties for additional terms of one (1) year. In the event no management agreement exists because of termination or otherwise, the Corporation shall thereupon and thereafter resume performance of all the management duties, obligations and functions. Notwithstanding anything to the contrary contained herein prior to the Applicable Date, Declarant shall have, and Declarant hereby reserves to itself (either through a management company or otherwise), the exclusive right to manage the Property and to perform all the functions of the Corporation.

26. Costs and Attorneys' Fees. In any proceeding arising because of failure of an Owner to make any payments required by this Declaration, the By-Laws or the Act, or to comply with any provision of the Declaration, the Act, the By-Laws, or the rules and regulations adopted pursuant thereto as each may be amended from time to time, the Corporation shall be entitled to recover its costs and reasonable attorneys' fees incurred in connection with such default or failure.

27. Waiver. No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or Limited Common Areas or by abandonment of his Condominium Unit.

28. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provisions of this Declaration or the By-Laws filed herewith shall not impair or affect in any manner the validity, enforceability or affect the rest of this Declaration or the attached By-Laws.

29. Enforcement. The provisions of this Declaration, the By-Laws, the Articles of Incorporation or the Statute may be enforced by the Corporation or by any aggrieved Owner through court proceedings for injunctive relief, for damages or for both.

30. Pronouns. Any reference to the masculine, feminine or neuter gender herein shall, unless the context clearly requires the contrary, be deemed to refer to and include the masculine, feminine and neuter genders. Words in the singular shall include and refer to the plural, and vice versa, as appropriate.

31. Floor Plans. The Plans setting forth the layout, location, identification numbers, and dimensions of the Condominium Units and the Property are incorporated into this Declaration by reference, and have been filed in the Office of the Recorder of Hendricks County, Indiana, as Instrument No. _____.

32. Statement of Regular or Special Assessment. No less than five (5) business days prior to the sale of any Condominium Unit by an Owner other than Declarant, such Owner must request the Board of Directors to issue a written statement of all assessed and unpaid Regular and Special Assessments from such Owner in a form suitable for recording. The Board of Directors may, by an instrument in incumbency, authorize one or more members of the Board or the Treasurer of the Corporation to sign such written statement. The recording of such written statement, together with a deed to such Condominium Unit, shall operate to discharge the Condominium Unit from any lien for any other Regular or Special Assessments unpaid as of the date of such statement.

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EXHIBIT ALegal Description

(The Springs at Saratoga)

A part of the Northeast Quarter and a part of the Southeast Quarter, both in Section 33, Township 15 North, Range 1 East of the Second Principal Meridian, Guilford Township, Town of Plainfield, Hendricks County, Indiana, described as follows:

Commencing at a stone marking the Northwest corner of said Northeast Quarter; thence South 00 degrees 14 minutes 07 seconds East (assumed bearing), along the west line of said Northeast Quarter, 1492.49 feet to the Point of Beginning of this description; thence North 89 degrees 51 minutes 52 seconds East 864.83 feet; thence South 00 degrees 13 minutes 50 seconds East 596.34 feet; thence North 89 degrees 46 minutes 10 seconds East 150.00 feet; thence South 00 degrees 13 minutes 50 seconds East 501.30 feet; thence South 88 degrees 44 minutes 46 seconds West 627.34 feet; thence South 04 degrees 05 minutes 13 seconds East 66.08 feet to a point on the south line of said Northeast Quarter, said point being North 88 degrees 44 minutes 46 seconds East 392.00 feet from the Southwest corner of said Northeast Quarter; thence continuing South 04 degrees 05 minutes 13 seconds East 253.50 feet; thence South 88 degrees 44 minutes 46 seconds West, parallel with said south line, 137.00 feet, thence North 04 degrees 05 minutes 13 seconds West 253.50 feet to the south line of said Northeast Quarter; thence South 88 degrees 44 minutes 46 seconds West, along said south line, 255.00 feet to the Southwest corner of said Northeast Quarter; thence North 00 degrees 14 minutes 07 seconds West, along the west line of said Northeast Quarter, 1183.21 feet to the Point of Beginning.

EXHIBIT B

[Phase I]

That portion of Lot 1 in The Springs at Serotega as per plat thereof recorded as Instrument Number 200400002591 in Plat Cabinet 1, Slide 163, Pages 2A8 in the Office of the Recorder of Hendricks County, Indiana, described as follows:

BEGINNING at the northeast corner of said Lot 1 thence South 89 degrees 51 minutes 52 seconds West along the north line thereof 225.00 feet thence South 00 degrees 08 minutes 08 seconds East 133.50 feet thence South 89 degrees 51 minutes 52 seconds West 307.75 feet thence South 00 degrees 08 minutes 08 seconds East 144.44 feet thence North 89 degrees 45 minutes 53 seconds East 162.43 feet thence South 00 degrees 14 minutes 07 seconds East 91.81 feet thence North 89 degree 45 minutes 53 seconds East 200.75 feet thence North 00 degrees 14 minutes 07 seconds East 152.14 feet thence North 89 degrees 45 minutes 52 seconds East 150.02 feet to the east line of said Lot 1 thence North 00 degrees 13 minutes 50 seconds West along said east line 216.68 feet to the POINT OF BEGINNING, containing 2.667 acres, more or less.

EXHIBIT C

[Code of By-Laws]

**CODE OF BY-LAWS OF
THE SPRINGS AT SARATOGA CONDOMINIUMS
AND OF
THE SPRINGS AT SARATOGA OWNERS ASSOCIATION, INC.**

CODE OF BY-LAWS
OF
THE SPRINGS AT SARATOGA CONDOMINIUMS
AND OF
THE SPRINGS AT SARATOGA OWNERS ASSOCIATION, INC.

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CODE OF BY-LAWS
OF
THE SPRINGS AT SARATOGA CONDOMINIUMS
AND OF
THE SPRINGS AT SARATOGA OWNERS ASSOCIATION, INC.

ARTICLE I

Identification and Applicability

Section 1.01. Identification and Adoption. These By-Laws are adopted simultaneously with the execution of a certain Declaration creating The Springs at Saratoga Condominiums (hereinafter sometimes referred to as "The Springs at Saratoga") to which these By-Laws are attached and made a part thereof. The Declaration is incorporated herein by reference, and all of the covenants, rights, restrictions and liabilities therein contained shall apply to and govern the interpretation of these By-Laws. The definitions and terms as defined and used in the Declaration shall have the same meaning in these By-Laws and reference is specifically made to paragraph 1 of the Declaration containing definitions of terms. The provisions of these By-Laws shall apply to the Property and the administration and conduct of the affairs of the Corporation. These By-Laws shall also constitute the By-Laws of the Corporation.

Section 1.02. Name, Principal Office and Resident Agent. The name of the Corporation is The Springs at Saratoga Owners Association, Inc. (hereinafter referred to as the "Corporation"). The post office address of the principal office of the Corporation is 3815 River Crossing Parkway, Suite 350, Indianapolis, Indiana 46240; the name of its Resident Agent in charge of such office is John M. Hennessey. The location of the principal office of the Corporation, or the designation of its Resident Agent, or both, may be changed at any time or

from time to time when authorized by the Board of Directors by filing with the Secretary of State on or before the day any such change is to take effect or as soon as possible after the death of its Resident Agent or other unforeseen termination of its agent.

Section 1.03. Individual Application. All of the Owners, future Owners, tenants, future tenants, or their guests and invitees, or any other person that might use or occupy a Condominium Unit or any part of the Property, shall be subject to the restrictions, terms and conditions set forth in the Declaration, these By-Laws and the Act, and to any rules and regulations adopted by the Board of Directors as herein provided.

ARTICLE II

Meetings of Corporation

Section 2.01. Purpose of Meetings. At least annually, and at such other times as may be necessary, a meeting of the Owners shall be held for the purpose of electing the Board of Directors (subject to the provisions of Section 3.02 hereof), approving the annual budget, providing for the collection of Common Expenses, and for such other purposes as may be necessary or required by the Declaration, these By-Laws or the Act.

Section 2.02. Annual Meetings. The annual meeting of the members of the Corporation shall be held on a date established by the Board pursuant to notice provided in accordance with these By-Laws within six (6) months of the close of each fiscal year of the Association. At the annual meeting the Owners shall (subject to the provisions of Section 3.02 hereof) elect the Board of Directors of the Corporation in accordance with the provisions of these By-Laws and transact such other business as may properly come before the meeting.

Section 2.03. Special Meetings. A special meeting of the members of the Corporation may be called by resolution of the Board of Directors or upon a written petition of Owners who

have not less than twenty percent (20%) of the Percentage Vote (as defined in the Declaration). The resolution or petition shall be presented to the President or Secretary of the Corporation and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

Section 2.04. Notice and Place of Meetings. Except with respect to the Initial Board, all meetings of the Members of the Corporation shall be held at any suitable place in Hendricks County, Indiana, as may be designated by the Board of Directors. Written notice stating the date, time and place of any meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Corporation to each Member entitled to vote thereat not less than ten (10) days prior to the date of such meeting. The notice shall be mailed or delivered to the Owners at the addresses of their respective Condominium Units and not otherwise. A copy of each such written notice shall also be delivered or mailed simultaneously by the Secretary of the Corporation to each Mortgagee (a) who requests in writing that such notices be delivered to it, and (b) who has furnished the Corporation with its name and address in accordance with Section 8.01 of these By-Laws. Such Mortgagee may designate a representative to attend the meeting. Attendance at any meeting in person, by agent or by proxy shall constitute a waiver of notice of such meeting.

Section 2.05. Voting and Conduct of Meetings.

(a) **Number of Votes.** On each matter coming before the meeting as to which an Owner is entitled to vote, such Owner shall be entitled to cast a vote equal to the Percentage Interest applicable to such Owner's Condominium Unit.

(b) **Multiple Owner.** Where the Owner of a Condominium Unit constitutes or consists of more than one person, or is a partnership, there shall be only one voting

representative entitled to all of the Percentage Vote allocable to that Condominium Unit. At the time of acquisition of title to a Condominium Unit by a multiple Owner or a partnership, those persons constituting such Owner or the partners shall file with the Secretary of the Corporation an irrevocable proxy appointing one of such persons or partners as the voting representative for such Condominium Unit, which shall remain in effect until all of such parties constituting such multiple Owner or the partners in such partnership designate another voting representative in writing, or such appointed representative relinquishes such appointment in writing, becomes incompetent, dies or such appointment is otherwise rescinded by order of a court of competent jurisdiction or the Owner no longer owns such Condominium Unit. In the event no proxy is filed, the first-named person on the deed shall have the right to vote with respect to such Condominium Unit. Such appointed voting representative may grant a proxy to another to vote in his place at a particular meeting or meetings pursuant to paragraph (d) of this Section 2.05, which shall not constitute a permanent relinquishment of his right to act as voting representative for the Condominium Unit.

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

(d) Proxy. An Owner may vote either in person or by his duly authorized and designated attorney-in-fact. Where voting is by proxy, the Owner shall duly designate his

attorney-in-fact in writing, delivered to an officer or the Managing Agent (as defined in Section 3.06) of the Corporation prior to the commencement of the meeting.

(e) **Pledges.** If the vote of an Owner or Owners has been pledged by mortgage, security agreement, conditional assignment, or other instrument, an executed copy of which has been filed with the Secretary, only the pledgee shall be entitled to cast the vote of such Owner or Owners upon those matters upon which the Owner or Owners vote is so pledged.

(f) **Quorum.** Except where otherwise expressly provided in the Declaration, these By-Laws, the Act or the Indiana Nonprofit Corporation Act of 1991 (hereinafter referred to as the "Statute"), a majority of Owners present in person or by proxy shall constitute a quorum at all meetings.

(g) **Conduct of Annual Meeting.** The President of the Corporation shall act as the Chairman of all annual meetings of the Corporation if he is present. At all annual meetings, the Chairman shall call the meeting to order at the duly designated time and business will be conducted in the following order:

(1) **Reading of Minutes.** The Secretary shall read the minutes of the last annual meeting and the minutes of any special meeting held subsequent thereto, unless such reading is waived by a majority of the Percentage Vote.

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

(3) **Budget.** The proposed budget for the current fiscal year shall be presented to the Owners.

(4) Election of Board of Directors. After the Applicable Date, nominations for the Board of Directors may be made by any Owner from those persons eligible to serve. Such nominations must be in writing and presented to the Secretary of the Corporation at least seven (7) days prior to the date of the annual meeting. Voting for the Board of Directors will be by paper ballot. The ballot shall contain the name of each person nominated to serve as a Board member. Each Owner may cast the total number of votes to which he is entitled for as many nominees as are to be elected; however, he shall not be entitled to cumulate his votes. Those persons receiving the highest number of votes shall be elected. Each voting Owner shall sign his ballot. Prior to the Applicable Date, the nomination and election of the Board shall be governed by the provisions of Section 3.02 hereof.

(5) Other Business. Other business may be brought before the meeting only upon a written request submitted to the Secretary of the Corporation at least seven (7) days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed by a majority of the Percentage Vote.

(6) Adjournment.

(g) Conduct of Special Meeting. The President of the Corporation shall act as Chairman of any special meetings of the Corporation if he is present. The Chairman shall call the meeting to order at the duly designated time and the only business to be considered at such meeting shall be in consideration of the matters for which such meeting was called, as set forth in the notice of such special meeting.

ARTICLE III

Board of Directors

Section 3.01. Management. The affairs of the Corporation and The Springs at Saratoga shall be governed and managed by the Board of Directors (herein collectively called "Board" or "Directors" and individually called "Director"). Prior to the Applicable Date, the Board shall be composed of three (3) individuals; after the Applicable Date, the Board of Directors shall be composed of five (5) persons. Except with respect to the Initial Board of Directors, no person shall be eligible to serve as a Director unless he is, or is deemed in accordance with the Declaration to be, an Owner, including a person appointed by Declarant as provided in Section 3.02 hereof.

Section 3.02. Initial Board of Directors. The initial Board of Directors shall be John M. Hennessey, Timothy F. Brammer and Jay A. Brammer (herein referred to as the "Initial Board"), all of whom have been or shall be appointed by Declarant. Notwithstanding anything to the contrary contained in, or any other provisions of, these By-Laws or the Declaration or the Act or elsewhere (a) the Initial Board shall hold office until the earlier of (1) July 31, 2011, or (2) the date Declarant files for record in the Office of the Recorder of Hendricks County, Indiana an instrument waiving or releasing its reserved right as set forth in paragraph 21 of the Declaration to expand or further expand The Springs at Saratoga, or (3) at such earlier date as Declarant may determine, or (4) one hundred twenty (120) days after the date by which seventy-five percent (75%) of the Condominium Units have been conveyed to Owners (such date when the Initial Board shall no longer hold office being herein referred to as the "Applicable Date") and (b) in the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever, prior to the Applicable Date determined as provided above, every such

vacancy shall be filled by a person appointed by Declarant, who shall thereafter be deemed a member of the Initial Board. Each Owner, by acceptance of a deed to a Condominium Unit, or by acquisition of any interest in a Condominium Unit by any type of juridic acts, inter vivos or causa mortis, or otherwise, shall be deemed to have appointed Declarant as such Owner's agent, attorney-in-fact and proxy, which shall be deemed coupled with an interest and irrevocable until the Applicable Date determined as provided above, to exercise all of said Owner's right to vote and to vote as Declarant determines on all matters as to which members are entitled to vote under the Declaration, these By-Laws, the Act, or otherwise. This appointment of Declarant as such Owner's agent, attorney-in-fact and proxy shall not be affected by incompetence of the Owner granting the same.

Section 3.03. Additional Qualifications. Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a partner or an officer or trustee shall be eligible to serve on the Board of Directors, except that no single Condominium Unit may be represented on the Board of Directors by more than one person at a time.

Section 3.04. Term of Office and Vacancy. Subject to the provisions of Section 3.02 hereof, one (1) member of the Board of Directors shall be elected at each annual meeting of the Corporation. The Initial Board shall be deemed to be elected and re-elected as the Board of Directors at each annual meeting until the Applicable Date provided in Section 3.02 hereof. Each member of the Board of Directors shall be elected for a term of three (3) years, except that at the first election after the Applicable Date two (2) members of the Board of Directors shall be elected for a three (3) year term, two (2) members for a two (2) year term, and one (1) member for a one (1) year term so that the terms of at least one-fifth (1/5) of the Directors shall expire

annually. There shall be separate nominations for the office of each Director to be elected at the first meeting after the Applicable Date. Each Director elected shall hold office throughout the term of his election and until his successor is elected and qualified. Subject to the provisions of Section 3.02 hereof as to the Initial Board, any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining Directors or by vote of the Owners if a Director is removed in accordance with Section 3.05 of this Article III. The Director so filling a vacancy shall serve until the next annual meeting of the members and until his successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the Director so removed or in respect to whom there has otherwise been a vacancy.

Section 3.05. Removal of Directors. A Director or Directors, except the members of the Initial Board, may be removed with or without cause by vote of a majority of the Percentage Vote at a special meeting of the Owners duly called and constituted for such purpose. In such case, his successor shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director so elected shall serve until the next annual meeting of the Owners and until his successor is duly elected and qualified.

Section 3.06. Duties of the Board of Directors. The Board of Directors shall provide for the administration of The Springs at Saratoga, the maintenance, upkeep and replacement of the Common Areas and Limited Common Areas (unless the same are otherwise the responsibility or duty of Owners of Condominium Units pursuant to the Declaration or these By-Laws), the establishment of a budget and the collection and disbursement of the Common Expenses. After the Applicable Date, the Board may, on behalf of the Association, employ a reputable and recognized professional property management agent (herein called the "Managing

Agent") upon such terms as the Board shall find, in its discretion, reasonable and customary. The Managing Agent shall assist the Board in carrying out its duties, which include, but are not limited to:

- (a) protection, surveillance and replacement of the Common Areas and Limited Common Areas, including, without limitation, the enforcement of the prohibition of vehicular parking in the right-of-way of streets and roads on the Property, unless the same are otherwise the responsibility or duty of the Owners or Condominium Units; provided, however, that this duty shall not include or be deemed or interpreted as a requirement that the Corporation, the Board or any Managing Agent must provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished;
- (b) procuring of utilities used in connection with The Springs at Saratoga, removal of garbage and waste, and snow removal from the Common Areas and Limited Common Areas, as applicable;
- (c) landscaping, painting, decorating, furnishing, maintenance and upkeep of the Common Areas and where applicable, the Limited Common Areas;
- (d) surfacing, paving and maintaining private streets, parking areas and sidewalks to the extent the same are part of the Common Area or Limited Common Areas;
- (e) assessment and collection from the Owners of the Owner's share of the Common Expenses;

(f) preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of annual meeting is mailed or delivered;

(g) preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year; such accounting shall be delivered to each Owner simultaneously with delivery of the proposed annual budget for the current year;

(h) procuring and maintaining for the benefit of the Owners, the Corporation and the Board the insurance coverages required under the Declaration and such other insurance coverages as the Board, in its sole discretion, may deem necessary or advisable.

(i) Making available to Owners and mortgagees current copies of the Declaration, By-Laws and rules and regulations governing The Springs at Saratoga ("Organizational Documents") and any other books, records and financial statements of the Association. The Board shall also make available to prospective purchasers of Condominium Units current copies of the Organizational Documents and the most recent annual financial statement if such statement has been prepared. "Available" means available for inspection upon request during normal business hours or under other reasonable circumstances. A copy shall be provided initially for the Owners of each Condominium Unit and additional copies shall be made available for purchase by Members at reasonable costs. Upon written request by the United States Department of Housing and Urban Development or the Veterans Administration, the Board shall also prepare

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and furnish within a reasonable time an audited financial statement for the Association for the immediately preceding fiscal year.

(j) The maintenance, repair, upkeep and replacement of the Common Area (except as is otherwise the obligation of an Owner), including but not limited to, the maintenance, repair, upkeep and replacement of the following (if located in the Common Area):

- (1) Streets;
- (2) Signage;
- (3) Flowers, plant material, grass and other landscaping;
- (4) Irrigation system, if any;
- (5) Yard lighting; and
- (6) Mailboxes.

(k) Taking such action or performing such tasks as are, in the Board's discretion, beneficial to the Owners.

Section 3.07. Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These powers include, but are not limited to, the power:

(a) to employ a Managing Agent to assist the Board in performing its duties, including keeping a record and minutes of all meetings; provided, however, except as otherwise provided in Paragraph 25 of the Declaration, any management agreement shall be terminable by the Corporation for cause upon thirty (30) days written notice and otherwise upon ninety (90) days written notice,

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and any such agreement may not exceed one (1) year, renewable by agreement of the parties for successive one (1) year periods.

(b) to purchase, lease or otherwise obtain for the benefit of the Owners or for the Corporation to perform its duties such equipment, materials, labor and services as may be necessary in the judgment of the Board of Directors;

(c) to employ legal counsel, architects, contractors, accountants and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of The Springs at Saratoga and of the Corporation;

(d) to employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the maintenance, upkeep, repair and replacement of the Common Areas and, where applicable, the Limited Common Areas and as otherwise necessary for the Board of Directors to perform its duties;

(e) to include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom;

(f) to open and maintain a bank account or accounts in the name of the Corporation; and

(g) to promulgate, adopt, revise, amend and alter from time to time such additional rules and regulations with respect to use, occupancy, operation and enjoyment of the Tract, the Common Area (in addition to those set forth in this Declaration) as the Board, in its discretion, deems necessary or advisable; provided, however, that copies of any such additional rules and regulations so

adopted by the Board shall be promptly delivered or mailed to all Owners, and further provided that such rules and regulations are not in conflict with any terms and provisions of this Declaration or of any rules and regulations adopted by the Corporation.

Section 3.08. Limitation on Board Action. After the Applicable Date, the authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than Five Thousand Dollars (\$5,000.00) without obtaining the prior approval of a majority of the Percentage Vote, except that in the following cases such approval shall not be necessary:

- (a) contracts for replacing or restoring portions of the Common Areas or Limited Common Areas damaged or destroyed by fire or other casualty where the cost thereof is payable out of insurance proceeds actually received;
- (b) proposed contracts and proposed expenditures covered in the annual budget; and
- (c) expenditures necessary to deal with emergency conditions in which the Board of Directors reasonably believes there is insufficient time to call a meeting of the Owners.

Section 3.09. Compensation. No Director shall receive any compensation for his services as such except to such extent as may be expressly authorized by a majority of the Percentage Vote. The Managing Agent shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

Section 3.10. Meetings. The Board shall meet each year within ten (10) days following the date of the annual meeting of the Corporation, which time and place shall be fixed at the

annual meeting, for the purpose of organization, election of officers and consideration of any other business that may properly be brought before the meeting, and no notice shall be necessary to any newly elected Directors in order legally to constitute such meeting if a quorum is present.

Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors. The Secretary shall give notice of regular meetings of the Board to each Director personally or by United States mail at least five (5) days prior to the date of such meeting.

Special meetings of the Board may be called by the President or any two members of the Board. The person or persons calling such meeting shall give written notice thereof to the Secretary who shall either personally or by mail, and at least three (3) days prior to the date of such special meeting, give notice to the Board members. The notice of the meeting shall contain a statement of the purpose for which the meeting is called. Except with respect to the Initial Board, such meeting shall be held at such place and at such time within Hendricks County, Indiana, or any of the contiguous counties, as shall be designated in the notice.

Section 3.11. Waiver of Notice. Before any meeting of the Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Director at a meeting or his subsequent consent to the actions taken thereat, shall, as to such Manager, constitute a waiver of notice of the time, place and purpose thereof. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 3.12. Action Without a Meeting. Any action required or permitted to be taken at any meeting of the Board may be taken without a meeting if a consent in writing setting forth

such action so taken is signed by all Directors and such written consent is filed with the minutes of the proceedings of the Board.

Section 3.13. Quorum. At all meetings of the Board a majority of the Directors shall constitute a quorum for the transaction of business and the votes of the majority of the Directors present at a meeting at which a quorum is present shall be the decision of the Board.

Section 3.14. Non-Liability of Directors. The Directors shall not be liable to the Owners or any other persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, bad faith or gross negligence. The Corporation shall indemnify and hold harmless and defend each of the Directors against any and all liability to any person, firm or corporation arising out of contracts made by the Board on behalf of The Springs at Saratoga or the Corporation, unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or By-Laws. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of The Springs at Saratoga or the Corporation and that in all matters the Board is acting for and on behalf of the Owners as their agent. The liability of any Owner arising out of any contract made by the Board or out of the aforesaid indemnity in favor of the Directors shall be limited to such percentage of the total liability or obligation thereunder as is equal to his Percentage Interest. Every contract made by the Board or the Managing Agent on behalf of The Springs at Saratoga shall provide that the Board of Directors and the Managing Agent, as the case may be, are acting as agent for the Owners and shall have no personal liability thereunder, except in their capacity as Owners (if applicable) and then only to the extent of their Percentage Interest.

Section 3.15. Additional Indemnity of Directors. The Corporation shall indemnify, hold harmless and defend any person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he is or was a Director of the Corporation, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such Director is liable for gross negligence or misconduct in the performance of his duties. The Corporation shall also reimburse to any such Director the reasonable costs of settlement of or judgment rendered in any action, suit or proceeding, unless it is determined by a majority of the Percentage Vote that such Director was guilty of gross negligence or misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Director, no Director shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good faith, such Director relied on the books and records of the Corporation or statements or advice made by or prepared by the Managing Agent of The Springs at Saratoga or any officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the Corporation to render advice or service unless such Director had actual knowledge of the falsity or incorrectness thereof; nor shall a Director be deemed guilty of or liable for negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Directors.

Section 3.16. Transactions Involving Affiliates. No contract or other transaction between the Corporation and one or more of its Directors, or between the Association and any Person (including Declarant and/or shareholders or members of Declarant) in which one or more

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of the Directors are directors, officers, partners, or employees or are pecuniarily or are otherwise interested shall be void or voidable because such Director or Directors are present at the meeting of the Board that authorizes or approves the contract or transaction, or because his or their votes are counted for such purpose if:

(a) the contract or transaction is between the Corporation and Declarant or any affiliate of Declarant and entered into prior to the Applicable Date; or

(b) the fact of the affiliation or interest is disclosed or known to the Board or a majority thereof or noted in the minutes, and the Board authorizes, approves, or ratifies such contract or transaction in good faith by a vote sufficient for the purpose; or

(c) the fact of the affiliation or interest is disclosed or known to the Owners, or a majority thereof, and they approve or ratify the contract or transaction in good faith by a vote sufficient for the purpose; or

(d) the contract or transaction is commercially reasonable to the Corporation at the time it is authorized, ratified, approved or executed. Affiliated or interested Directors may be counted in determining the presence of the quorum at any meeting of the Board that authorizes, approves or ratifies any contract or transaction, and may vote thereat to authorize any contract or transaction with like force and effect as if they were not so affiliated or not so interested.

Section 3.17. Bonds. Blanket fidelity bonds shall be maintained by the Corporation for all officers, directors and employees of the Corporation or all other persons handling, or responsible for, funds of or administered by the Corporation. Where the Managing Agent has

the responsibility for handling or administering funds of the Corporation, the Managing Agent shall be required to maintain fidelity bond coverage for its officers, employees and agents handling or responsible for funds of, or administered on behalf of the Corporation and the Corporation shall be named as an additional obligee thereon. Such fidelity bonds shall name the Corporation as an obligee and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Corporation or Managing Agent, as the case may be, at any given time during the term of each bond. In no event, however, may the aggregate amount of such bonds be less than a sum equal to three (3) months' aggregate assessments on all Condominium Units plus reserve funds. The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions. The expense of all such bonds shall be a Common Expense. The bonds may not be canceled or substantially modified without thirty (30) days notice in writing to the Corporation, the Insurance Trustee and each servicer of a FNMA (Fannie Mae) owned mortgage in the Property.

ARTICLE IV

Officers

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

Section 4.02. Election of Officers. The officers of the Corporation shall be elected annually by the Board at its duly called annual meeting of the Board. Upon an affirmative vote of a majority of all members of the Board, any officer may be removed either with or without cause and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

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

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

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

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Section 4.06. The Treasurer. The Board shall elect from among the Directors a Treasurer who shall maintain a correct and complete record of account showing accurately at all times the financial condition of the Corporation and who shall perform such other duties incident to the office of Treasurer. He shall be the legal custodian of all monies, notes, securities and other valuables which may from time to time come into possession of the Corporation. He shall immediately deposit all funds of the Corporation coming into his hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account or accounts in the name of the Corporation. The Treasurer may permit the Managing Agent to handle and account for monies and other assets of the Corporation to the extent appropriate as part of its duties.

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

ARTICLE V

Assessments

Section 5.01. Annual Accounting. Annually, after the close of each fiscal year of the Corporation, the Board shall cause to be prepared and furnished to each Owner a financial statement which shall show all receipts and expenses received, incurred and paid during the preceding fiscal year.

Section 5.02. Proposed Annual Budget. Annually, on or before the date of the annual meeting of the Corporation, the Board shall cause to be prepared a proposed annual budget for

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the current fiscal year estimating the total amount of the Common Expenses for the current fiscal year and shall furnish a copy of such proposed budget to each Owner at or prior to the time the notice of such annual meeting is mailed or delivered to such Owner. The annual budget shall be submitted to the Owners at the annual meeting of the Corporation for adoption and, if so adopted, shall be the basis of the Regular Assessments for the current fiscal year. At the annual meeting of the Owners, the budget may be approved in whole or in part by a majority of the Percentage Vote, provided, however, that in no event shall the annual meeting of the Owners be adjourned until the proposed annual budget or the proposed annual budget as amended is approved and adopted at such meeting. The annual budget, the Regular Assessments and all sums assessed by the Corporation shall be established by using generally accepted accounting principles applied on a consistent basis. The annual budget and the Regular Assessments shall include the amounts required for funding the reserve accounts required by this Article V. The failure or delay of the Board to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as herein provided, whenever determined. Whenever, whether before or after the annual meeting of the Corporation, there is no annual budget approved by the Owners as herein provided for such current fiscal year, the Owners shall continue to pay Regular Assessments based upon the last approved budget or, at the option of the Board, based upon an amount no greater than once hundred and ten percent (110%) of such last approved budget, as a temporary budget.

Section 5.03. Regular Assessments. The annual budget as adopted by the Owners shall, based on the estimated cash required for the Common Expenses in the current fiscal year and required reserve amounts as set forth in said budget, contain a proposed assessment against

each Condominium Unit based on the Percentage Interest of each Condominium Unit. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against his respective Condominium Unit. In the event the Regular Assessment for a particular fiscal year is initially based upon a temporary budget, such Regular Assessment shall be revised within fifteen (15) days following adoption of the final annual budget by the Owners to reflect the Assessment against each Condominium Unit based upon such annual budget as finally adopted by the Owners. The aggregate amount of the Regular Assessments shall be equal to the total amount of expenses provided and included in the final annual budget, including reserve funds as herein provided. The Regular Assessment against each Condominium Unit shall be paid in advance in equal monthly installments, commencing on the first day of each calendar month. Payment of the monthly installments of the Regular Assessment shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors; provided, however, Owners may elect to pay monthly assessments semi-annually or annually, in advance.

If the Regular Assessment based upon the final annual budget adopted by the Owners exceeds the amount of the Regular Assessment based upon the temporary budget, that portion of such excess applicable to the period from the first day of the current fiscal year to the date of the next payment of the Regular Assessment that is due shall be paid with such next payment and such next payment, and all payments thereafter during such fiscal year shall be increased so that the Regular Assessment as finally determined shall be paid in full by the remaining payments due in such fiscal year.

If the Regular Assessment based upon the temporary budget exceeds the Regular Assessment based upon the final annual budget adopted by the Owners, such excess shall be

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credited against the next payment or payments of the Regular Assessment coming due until the entire amount of such excess has been so credited; provided, however, that if an Owner had paid his Regular Assessment either semi-annually or annually in advance, then the foregoing adjustments shall be made by a cash payment by or refund to the Owner on the first day of the second month following the determination of the Regular Assessment based upon the annual budget finally adopted by the Owners.

The Regular Assessments shall be payable in advance and shall commence at the time of closing and delivery of a deed. In computing the initial payment the amount of the Regular Assessments shall be calculated by apportioning the payment based upon a thirty (30) day month until the due date for payment of the next Regular Assessment occurs.

The Regular Assessment for the current fiscal year of the Corporation shall become a lien on each separate Condominium Unit as of the first day of each fiscal year of the Corporation, even though the final determination of the amount of such Regular Assessment may not have been made by that date. The fact that an Owner has paid his Regular Assessment for the current fiscal year in whole or in part based upon a temporary budget and thereafter, before the annual budget and Regular Assessment are finally determined, approved and adjusted as herein provided, and sells, conveys or transfers his Condominium Unit or any interest therein, shall not relieve or release such Owner or his successor as Owner of such Condominium Unit from payment of the Regular Assessment for such Condominium Unit as finally determined, and such Owner and his successor as Owner of such Condominium Unit shall be jointly and severally liable for the Regular Assessment as finally determined. Any statement of unpaid assessments furnished by the Corporation pursuant to the Declaration or these By-Laws prior to the final determination and adoption of the annual budget and Regular Assessment for the year in which

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such statement is made shall state that the matters set forth therein are subject to adjustment upon determination and adoption of the final annual budget and Regular Assessment for such year, and all parties to whom any such statement may be delivered or who may rely thereon shall be bound by such final determinations. Monthly installments of Regular Assessments shall be due and payable automatically on their respective due dates without any notice from the Board or the Corporation, and neither the Board nor the Corporation shall be responsible to Owners for the same.

Section 5.04. Special Assessments. From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and without the approval of the Owners, unless otherwise provided in these By-Laws, the Declaration or the Act, the Board of Directors shall have the full right, power and authority to make special assessments which, upon resolution of the Board, shall become a lien on each Condominium Unit, prorated in accordance with the Percentage Interest of each Condominium Unit. Without limiting the generality of the foregoing provisions, Special Assessments may be made by the Board of Directors from time to time to pay for capital expenditures, to pay for the cost of any repair or reconstruction of damage caused by fire or other casualty or disaster to the extent insurance proceeds are insufficient to pay for such items under the circumstances described herein or in the Declaration.

Section 5.05. Reserve for Replacements. The Board of Directors shall cause to be established and maintained a reserve fund for replacements by the allocation and payment to such reserve fund not less often than annually of an amount determined by the Board to be sufficient to meet the costs of periodic maintenance, repair, renewal and replacement of the Common Areas and Limited Common Areas, including, but not limited to, painting the exterior

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of buildings and resurfacing, repairing or replacing streets, parking areas, sidewalks, roofs, landscaped areas and other facilities and appurtenances. In determining the amount of such reserve fund, the Board shall take into consideration the expected useful life of such Common Areas and Limited Common Areas, projected increases in the cost of materials and labor, interest to be earned by such funds, and the advice of Declarant, the Managing Agent and consultants the Board may employ. Such fund shall include an amount to cover any and all insurance deductibles. Such fund shall be conclusively deemed to be a Common Expense. Such fund shall be deposited in an interest bearing account with a bank or savings and loan association authorized to conduct business in Marion or Hendricks County, Indiana. The reserve for replacements may be expended only for the purpose of effecting the periodic maintenance, repair, renewal or replacement of the Common Areas and Limited Common Areas and related equipment. The Board shall annually revise the adequacy of the reserve fund. The proportionate interest of any Owner in any reserve for replacements shall be considered an appurtenance of his Condominium Unit and shall not be separately withdrawn, assigned, transferred or otherwise separated from the Condominium Unit to which it appertains and shall be deemed to be transferred with such Condominium Unit.

Section 5.06. Working Capital Fund. To meet unforeseen expenditures or to purchase any additional equipment or services, Declarant shall establish a working capital fund equal to two (2) months of the initial estimated Common Expenses for each Condominium Unit in the initial Tract. In each subsequent Tract that may be created by Supplemental Declaration a like working capital fund contribution shall be made. Any amounts paid into this fund shall not be considered as advance payments of Regular Assessments. Each Condominium Unit's share of the working capital fund shall be collected at the time the sale of the Condominium Unit is

closed and shall be transferred to the Corporation for deposit to the segregated fund. Within sixty (60) days after closing has been held for the first Condominium Unit in each Tract (including Supplemental Declarations), the Declarant shall pay each unsold Condominium Unit's share of the working capital fund to the Corporation. The Declarant shall then reimburse itself for this payment from the funds collected at closing when the unsold Condominium Units are sold. Notwithstanding the foregoing, while the Declarant is in control of the Corporation, the Declarant cannot use any of the working capital funds to defray Declarant's expenses, reserve contributions or construction costs.

Section 5.07. General Operating Reserve. The Board of Directors may establish and maintain a reserve fund for general operating expenses of a nonrecurring nature by the allocation and payment to such reserve fund not less frequently than annually of such amount as the Board in its discretion determines to be reasonable under the circumstances. Such fund shall be conclusively deemed to be a Common Expense. Such fund shall be deposited in an interest bearing account with a bank or savings and loan association authorized to conduct business in Marion or Hendricks County, Indiana. The general operating reserve fund may be expended only for operating contingencies of a non-recurring nature. The proportionate interest of any Owner in any reserve fund for general operating expenses shall be considered an appurtenance of his Condominium Unit and shall not be separately withdrawn, assigned or transferred or otherwise separated from the Condominium Unit to which it appertains and shall be deemed to be transferred with such Condominium Unit.

Section 5.08. Failure of Owner to Pay Assessments. No Owner may exempt himself from paying Assessments, or from contributing toward the expenses of administration and of maintenance and repair of the Common Areas and, in the proper case, of the Limited Common

Areas of the Buildings, and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Areas or by abandonment of the Condominium Unit belonging to such Owner. Each Owner shall be personally liable for the payment of his Percentage Interest of all Assessments. Where the Owner constitutes more than one person, the liability of such person shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Assessment when due, the lien for such Assessment on the Owner's Condominium Unit may be filed and foreclosed by the Board for and on behalf of the Corporation as provided by law; provided, however, any lien for delinquent Assessments or other charges that the Corporation has on a Condominium Unit will be subordinate to a first mortgage on the Condominium Unit if the mortgage was recorded before the delinquent Assessment was due. Upon the failure of an Owner to make payments of any Assessment due, the Board may in its discretion assess reasonable late fees and interest on such payments, accelerate the entire balance of the unpaid Assessments for the remainder of the current fiscal year and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary. In any action to foreclose the lien for the Assessments, the Owner and any occupant of the Condominium Unit shall be jointly and severally liable for the payment to the Corporation of reasonable rental for such Condominium Unit, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Condominium Unit and to collect the rentals and other profits therefrom for the benefit of the Corporation to be applied to the unpaid Assessments. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Assessment without foreclosing or waiving the lien securing the Assessment. In any action to recover an Assessment, whether by foreclosure or otherwise, the Board, for and on behalf of the

Corporation, shall be entitled to recover costs and expenses of such action incurred, including but not limited to reasonable attorneys' fees, from the Owner of the respective Condominium Unit.

Section 5.09. Regular Assessments Prior to Applicable Date. The purpose of this section is to provide for the maintenance and upkeep of The Springs at Saratoga and for the payment of the Common Expenses during the period prior to the Applicable Date. Accordingly, and notwithstanding any other provision contained in the Declaration, these By-Laws, the Act or otherwise, prior to the Applicable Date the annual budget and all Regular Assessments and Special Assessments shall be established solely by the Initial Board.

Payment of the Regular Assessments prior to the Applicable Date with respect to each Condominium Unit that has been subjected to the Declaration (including those owned by Declarant) shall commence on the date of the conveyance of the first Condominium Unit to a new Owner. In addition, at the initial closing of each Condominium Unit, the purchaser or new Owner is required to pay a sum equal to the full Regular Assessment applicable to such Condominium Unit for two (2) months as his initial contribution to the working capital of the Corporation as provided in Section 5.06. Additionally as provided in Section 5.03, at each closing, the purchaser of a Condominium Unit shall pay his pro rata share of the Regular Assessment due in the month of closing. Thereafter, payment of the Regular Assessment shall be made on the first day of each calendar month.

Declarant or its successors in interest, as an Owner, shall be excused from payment of assessments from the date this Declaration is recorded until the first day of the twenty-fourth (24th) calendar month following the month in which the closing of the sale of the first Condominium Unit occurs in the Buildings committed by this Declaration to the Property; such provision shall also apply to assessments for Condominium Units owned by Declarant in

Buildings committed by Supplemental Declarations. Provided, further, that if the annual expenses of the Corporation incurred under the assessment procedure exceed the amount assessed against the other Owners (excluding the Declarant), then the Declarant or its successor shall pay the excess required during this twenty-four (24) month period on an annual basis. Prior to the Applicable Date, Declarant shall bear all expenses incurred with respect to Tract 1 arising out of construction or other activities on any portion of the Real Estate not included in Tract 1, including but not limited to road damage and clean-up of debris caused by construction traffic, connection to any utility lines or mains located on Tract 1 and damage to, or deterioration of, trees, fences or other portions of the Property due to construction off site or the state of areas under development.

Ten percent (10%) of the Regular Assessment paid prior to the Applicable Date shall be designated as a reserve fund for maintenance, repairs or replacement of Common Areas that must be repaired and replaced on a periodic basis as provided in Section 5.05.

That portion of the Regular Assessment collected by the Declarant prior to the Applicable Date applicable to the replacement reserve shall be held by the Initial Board and, if required, applied to the replacement of the Property. To the extent that such replacement reserve is not so applied, the balance thereof shall be retained by the Corporation at the Applicable Date.

Section 5.10. Waiver of Lien upon Foreclosure. Notwithstanding anything to the contrary contained in the Declaration and these By-Laws, any sale or transfer of a Condominium Unit to a Mortgagee pursuant to a foreclosure of its mortgage or conveyance in lieu thereof, or conveyance to any Person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any Assessment as to such installments that became due prior to such sale, transfer or conveyance, but

extinguishments of such lien shall not relieve the prior Owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Condominium Unit or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu thereof, from liability for any installments of Assessments thereafter becoming due or from the lien therefor. Such unpaid share of any Assessments, the lien for which has been divested as aforesaid, shall be deemed to be a Common Expense, collectible from all owners (including the party acquiring the Condominium Unit from which it arose), as provided in the Act.

Section 5.11. Initial Budgets and Assessments. Notwithstanding anything to the contrary contained herein, in the Declaration, in the Act, in the Statute or otherwise, until the Applicable Date, the annual budget and all Assessments shall be established by the Initial Board without meetings of or concurrence of the Owners. The agency, power of attorney and proxy granted to the Declarant by each Owner pursuant to Section 3.02 hereof shall be deemed to cover and include each Owner's right to vote on and approve the annual budget and any Assessments until the Applicable Date.

Section 5.12. Maintenance and Repairs. Every Owner shall promptly perform all maintenance and repair within his own Condominium Unit which, if neglected, would affect the value of the Property. In addition, each Owner shall furnish, and shall be responsible at his own expense for, the maintenance, repairs and replacements of his Condominium Unit and Limited Common Areas as applicable, and all equipment serving the same. Such maintenance, repairs and replacements which each Owner is responsible to make personally and at his own expense include, but are not necessarily limited to, water lines, gas lines, plumbing and electric lines which service the Owner's Condominium Unit only and are located within exterior walls of the Condominium Unit including any lines in the area from below the floor to above the roof if they

are within an extension of the exterior walls of the Condominium Unit; all partitions and interior walls, ceilings and floors; appliances, to include garbage disposals, dishwashers, stoves, ranges and refrigerators, telephones, air conditioning and heating equipment (whether located wholly or partially inside or outside the Condominium Unit), doors, screens and windows (including exterior and interior of all glass and screen surfaces), lamps, and interior and exterior grouting and/or caulking and all other accessories appurtenant to the Condominium Unit or belonging to the Owner thereof. In addition, each Owner is responsible for the maintenance, repair and upkeep of the garage door.

If, due to the willful, intentional or negligent acts or omissions of an Owner or of a member of his family or of a guest, tenant or other occupant or visitor of such Owner, or of an Owner's pet or automobile, damage shall be caused to the Common Areas or to a Condominium Unit or Limited Common Area owned by or reserved for the use of others, or if maintenance, repairs or replacements shall be required thereby which would otherwise be a Common Expense, then such Owner shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Corporation, unless such loss is covered by the Corporation's insurance with such policy having a waiver of subrogation clause. If not paid by such Owner upon demand by the Corporation, the cost of repairing such damage shall be added to and become a part of the assessment to which such Owner's Condominium Unit is subject. Maintenance, repairs and replacements to the Common Areas or the Condominium Units or Limited Common Areas shall be subject to the rules and regulations adopted from time to time by the Board.

To the extent that equipment, facilities and fixtures within any Condominium Unit shall be connected to similar equipment, facilities or fixtures affecting or serving other Condominium

Units or any Common Areas or Limited Common Areas, then the use thereof by the owner of such Condominium Unit shall be subject to the rules and regulations adopted from time to time by the Board. The authorized representatives of the Corporation or Board of Directors or the Managing Agent for the Corporation, shall be entitled to reasonable access to any Condominium Unit as may be required in connection with maintenance, repairs or replacements of or to the Common Areas or Limited Common Areas or any parts thereof, or any equipment, facilities or fixtures affecting or serving other Condominium Units or any Common Areas or Limited Common Areas.

ARTICLE VI

Restrictions, Entry and Rules and Regulations

Section 6.01. Restrictions on Use. The following restrictions on the use and enjoyment of the Condominium Units, Common Areas, Limited Common Areas and the Property shall be applicable to The Springs at Saratoga and are in addition to those set forth in the Declaration:

(a) All Condominium Units shall be used exclusively for residential purposes and for occupancy by a single family or by no more than three (3) unrelated persons, excepting Declarant specifically reserves the right to use Condominium Units as a sales office, sales area or model. No Condominium Unit may be partitioned or subdivided.

(b) No additional buildings shall be erected or located on the Tract other than the Buildings designated in the Declaration or a supplement or amendment to the Declaration, and shown on the Plans or plans filed with such supplement or amendment to the Declaration, without the consent of the Board of Directors, except Declarant reserves the right to maintain a mobile office for construction, marketing or management.

(c) Nothing shall be done or kept in any Condominium Unit or in the Common Areas or Limited Common Areas which will cause an increase in the rate of insurance on any Building or the contents thereof. No Owner shall permit anything to be done or kept in his Condominium Unit or in the Common Areas or Limited Common Areas which will result in a cancellation of insurance on any Building or any part of the Common Areas or contents thereof, or which would be in violation of any law or ordinance or the requirements of any insurance underwriting or rating bureau.

(d) No animals, livestock or poultry of any kind shall be raised, bred or kept in any Condominium Unit or in the Common Areas or Limited Common Areas or on the Property, except that pet dogs, cats or customary household pets may be kept in a Condominium Unit, provided that such pet is not kept, bred or maintained for any commercial purpose, and does not create a nuisance. An Owner shall be fully liable for any injury or damage to persons or property including the Common Areas or Limited Common Areas, caused by his pet. The Board may adopt such rules and regulations regarding pets as it may deem necessary from time to time including, but not limited to, a requirement that any Owner desiring to bring a pet on the Property shall deposit with the Board a security deposit in an amount to be determined by the Board to cover any damage that may be caused by such pet to the Common Areas. Any such security deposit shall be returned to the Owner when the pet is permanently removed from the Property, except to the extent said deposit has been used to repair damage caused by such pet. Any requirement for the depositing of such a security deposit shall not be deemed to release or in any way limit an Owner's responsibility and liability for injury and damage caused by his pets. Any pet which, in the judgment of the Board, is causing or creating a nuisance or unreasonable

disturbance or noise, shall be permanently removed from the Property within ten (10) days after written notice from the Board to the respective Owner to do so.

(e) Nothing shall be done or permitted in any Condominium Unit which will impair the structural integrity of any Building or which would structurally change any Building or which would affect the exterior appearance of any Condominium Unit, except as otherwise provided in the Declaration or these By-Laws. No Condominium Unit shall be used in any unlawful manner or in any manner which might cause injury to the reputation of The Springs at Saratoga.

(f) No industry, trade, or other commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Property.

(g) No "for sale", "for rent" or "for lease" signs, or other signs, or other window or advertising display shall be maintained or permitted on any part of the Property or any Condominium Unit without the prior written consent of the Board; provided, however, that the right is reserved by the Declarant and the Board to place or allow to be placed "for sale" or "for lease" signs on or about the Property in connection with any unsold or unoccupied Condominium Units. Except as placed or erected by Declarant or his assigns, agents or successors, no signs, billboards or objects shall be erected, placed, or permitted to remain on the Tract, nor shall the Tract be used in any way or for any purpose which may endanger the health or unreasonable disturb the Owner of any Unit. No Owner shall display a "for rent" or "for sale" sign without the express written consent of the Board.

(h) All Owners and members of their families, their guests, or invitees, and all occupants of any Condominium Unit or other persons entitled to use the same and to use and

enjoy the Common Areas and Limited Common Areas or any part thereof, shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of the Condominium Units, the Common Areas and Limited Common Areas. Common Areas shall be used only for the purposes for which they are designed and intended, and shall be used subject to the provisions of the Declaration, these By-Laws and rules and regulations from time to time adopted by the Board.

(i) No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Areas or Limited Common Areas, except with express written permission from the Board and if such permission is granted such Owner shall be obligated to maintain any such trees or landscaping.

(j) No vehicles shall be parked on the Common Elements, other than in authorized Parking Spaces, and no vehicle repairs, other than emergency repairs or repairs of a minimal nature needed to be performed to move a vehicle off the Property, shall be allowed on the Property. No vehicles shall be parked or stored on blocks or other such devices on the Common Elements or any other portion of the Condominium. No vehicles shall be parked so as to obstruct the fire lanes or roadways as may exist within the Condominium. The Corporation is expressly authorized to tow away, at an offending Owner's expense, any vehicle which is in violation of this Section, or which is placed on the Condominium Property in violation of the rules and regulations governing parking as may be adopted by the Board of Directors. No boats, boat trailers, campers, canoes, recreational vehicles, vehicles used primarily for recreational purposes, vehicles primarily used for commercial purposes, or vehicles with commercial writings on their exterior shall be stored, allowed to remain, or parked on any portion of the

Condominium, except in an area, if any, designated by the Board of Directors or except as otherwise permitted by the Corporation's Board of Directors or Declarant. The Board shall have the right to designate areas within the parking garage, of the Condominium for the parking of motorcycles and bicycles. Vehicular parking shall not be allowed in the right-of-way of the streets and roads of the Tract, and shall be limited strictly to those areas specifically set aside and designated as parking areas in the Plans.

(k) No Unit shall be occupied, operated or maintained in an unsanitary or hazardous condition.

(l) Should a Condominium Unit become vacant, the Owner is responsible for securing the Condominium Unit while it is unoccupied, including engaging all locks, providing security lighting, and heating the interior sufficient to keep pipes from freezing. Insurance claims or costs incurred by the Corporation or the Board for frozen pipe damage in unheated Condominium Unit may be offset by a special assessment levied against the Condominium Unit in an amount equal to the damage claim.

(m) No offensive or unsightly appearance shall be maintained or allowed to exist on those portions of any Condominium Unit visible from the exterior of the Building or Common Areas. All equipment, garbage cans, and storage areas shall be kept in a manner so as to conceal them from view of neighboring Condominium Units and streets, unless otherwise authorized by the Board of Directors; provided, however, exterior personal patio furnishings, such as chairs, grills, and swings, located within a Condominium Unit's balcony, patio, porch, terrace, or deck shall be permissible, subject to the rules and regulations of the Corporation. Provided further, however, that nothing shall be permitted which in the opinion of the Corporation's Board of

Directors jeopardizes the structural integrity of any deck or other part of the Tract, or which presents risk of damage to adjacent property shall be permitted.

(n) No garbage or trash shall be placed or kept on the Tract except in covered containers of a type, size and style which are approved by the Corporation. The Corporation shall have the right to subscribe to a trash service for the use and benefit of the Corporation and all Owners; and to adopt and promulgate rules and regulations regarding garbage, trash, trash containers and collection. The Corporation shall have the right to require all Owners to place trash and garbage in containers located in areas designated by the Corporation. No incinerators shall be kept or maintained in any Condominium Unit. All rubbish, trash, and garbage shall be regularly removed from the Tract and shall not be allowed to accumulate thereon. If trash dumpsters are used to facilitate trash, rubbish and garbage removal, all such trash, rubbish and garbage shall be placed therein for removal from the Tract.

(o) No machinery or equipment of any kind shall be placed, operated or maintained upon the Tract except such machinery or equipment as is usual and customary in connection with the Declarant's sales, marketing, maintenance or construction of the improvements which are within the permitted uses of the Tract, and any use except that which Declarant or the Corporation may require or permit for the operation and maintenance of the Common Areas and Condominium Units.

(p) An Owner may lease his or her Condominium Unit (but not less than his or her entire Condominium Unit) at any time and from time to time provided that:

(i) No Condominium Unit may be leased for transient or hotel purposes or for an initial term of less than one (1) year;

(ii) No Condominium Unit may be leased or subleased without written lease or sublease;

(iii) A fully executed copy of such lease or sublease shall be furnished to the Board for approval not less than thirty (30) days prior to the date the lessee or sublessee obtains possession of the Condominium Unit;

(iv) The rights of any lessee of a Condominium Unit shall be subject to, and each such lessee shall be bound by, the covenants, conditions and restriction set forth in the Declaration, By-Laws and rules and regulations, and a default thereunder shall constitute a default under the lease or sublease; provided, however, that the foregoing shall not impose any direct liability on any lessee or sublessee of a Condominium Unit to pay any Common Expenses or special assessments on behalf of the Owner of that Condominium Unit.

(q) No improper or unlawful use shall be permitted on any part of the Tract. All valid laws, zoning ordinances, and regulations of all government bodies having jurisdiction over the Condominium shall be observed. Any violation of such laws, zoning ordinances or regulations shall be a violation of this Declaration.

(r) No Owner, lessee, occupant, or other person shall create a nuisance within the Property, or use any portion of the Property for any activity or purpose which is considered by the Board, its sole and absolute discretion, to be objectionable due to sound, odor, visual effect or physical impact and which in the opinion of the Board will disturb or tend to disturb other Owners or lessees of the Property, or which is deemed by the Board to constitute a nuisance. Included among the uses of activities prohibited because of their detrimental effect upon the general appearance, enjoyment and use of the Property are, without limitation, the following:

(i) Any public or private nuisance.

(ii) Any vibration, noise, sound or disturbance that is objectionable due to intermittence, beat, frequency, shrillness, loudness or pulsating effect.

(iii) Any lighting which is flashing or intermittent or is not focused downward or away from any Unit, unless otherwise approved by the Board.

(iv) Any air pollution, including without limitation any dust, dirt, mold, microbials or other environmental pollutants in excessive quantities.

(v) Any emission of excessive and offensive odors, or noxious.

(s) No nuisance shall be permitted to exist or operate upon the Property and no activity shall be conducted upon the Property which is offensive or detrimental to any portion of the Property or any Owner, occupant or lessee of the Condominium Unit. No exterior speakers, horns, whistles, bells or other sound devices except security or other emergency devices used exclusively for security or emergency purposes shall be located, used or placed on or in the Property.

(t) No Owner shall cause or permit anything to be hung or displayed on the outside of the windows or placed on the outside walls or balcony of the Building, and no sign, awning, canopy, shutter or radio or television antenna or other attachment or thing shall be affixed to or be placed upon the exterior wall or roofs or any other parts of any Building without the prior consent of the Board; provided, whoever, Owners may install satellite dishes which are no larger than twenty-four (24) inches in diameter provided that each such Owner obtains approval from the Board with respect to the location of the installation of such satellite dish. Interior window and door drapes or coverings shall be of a neutral translucent color and texture or of the same color of the exterior facade surrounding the window or door.

(u) Common Areas and Limited Common Areas shall be used only for the purposes for which they are designed and intended, and shall be used subject to the provisions of the Declaration, these By-Laws and the rules and regulations from time to time adopted by the Board.

(v) The Corporation shall have no right of first refusal to purchase any Condominium Unit which an Owner wishes to sell and an Owner may sell his Condominium Unit free of any such restriction.

Section 6.02. Enforcement. The Declarant, the Board or, in a proper case, an Aggrieved Owner, shall have the right of enforcement of all restrictions and regulations adopted pursuant to this Article VI. An "Aggrieved Owner" shall mean an Owner whose rights are affected or infringed by any such alleged failure to comply with the provisions of the Declaration, By-Laws or any decision of the Corporation or its Board of Directors in a manner different from the rights of all other Owners. Any Owner who alleges that he is an "Aggrieved Owner" shall first notify the Board of Directors of such Owner's aggrieved status and request a special meeting of the Board of Directors to be held within thirty (30) days of such request (or within five (5) days in an emergency situation) to establish to the Board and the Corporation that such owner is "aggrieved" within the meaning hereof, prior to the commencement of any right of action commenced hereunder. Any costs, including reasonable attorneys' fees, may be recovered from any Owner for violation thereof, however, any reservation of right to the use of summary abatement or similar means to enforce restrictions against a Condominium Unit or its use shall require that judicial proceedings be instituted before any items of construction can be altered or demolished.

This Declaration, including all restrictions set forth herein, and the rules and regulations may be enforced by injunctive relief, specific performance or the imposition of reasonable monetary fines and suspension of use and voting privileges. These powers, however, shall not be construed as limiting any other legal means of enforcing the use restrictions or rules and regulations of the Corporation. Any fines so imposed shall be considered an assessment against the Unit and may be collected in the manner provided for collection of other assessments. In addition to the foregoing, if any person shall fail to maintain its Unit in a reasonably safe and sanitary condition, the Corporation may, at the Board's option, and after ten (10) days written notice to the Owner, perform any clean-up, repair and/or replacement to cure any such condition, and all costs and expenses reasonably incurred by the Corporation, plus interest thereon at the rate of sixteen (16%) per annum, shall be reimbursed to the Corporation by such Owner within thirty (30) days after work has been completed. The Corporation may levy a special assessment against any such Condominium Unit, which may be enforced in accordance with these By-Laws.

Section 6.03. Compliance with Covenants, Conditions and Restrictions. Every Owner, mortgagee, lessee or other occupant of a Condominium Unit shall comply strictly with the covenants, conditions and restrictions set forth in this Declaration, with the By-Laws and with the rules and regulations in relation to the use and operation of the Tract. A violation committed by any persons residing in, occupying or visiting a Condominium Unit at the behest or with the implied or express permission of the Owner or any other occupant of the Condominium Unit, or committed by any agent, employee, business invitee, or contractor of the Owner or of any person occupying a Condominium Unit, shall be attributed to that Condominium Unit and the Owner thereof. Failure to comply with any of said covenants, conditions and/or restrictions shall be grounds for withdrawal by the Board of Directors of

privileges with respect to the use of any of the Common Areas by any defaulting Owner and by his tenants, invitees, guests and all members of his family and/or his tenant's family. The Board may also prohibit any Owner from entering into any new lease of his Condominium Unit with anyone so long as he is in default in the performance of any of his obligations under the Declaration, By-Laws, or rules and regulations. An action seeking a declaratory judgment, the recovery of sums due for damages, or injunctive relief, or any or all of them may be maintained by the Board of Directors or by an interested party who has obtained the prior written consent of the Board of Directors against any Owner, or any person entitled to occupy a Condominium Unit who refuses to comply or threatens to refuse to comply with any provisions of this Declaration, the By-Laws, the Rules and Regulations, or any other document establishing ownership or control over any part of the Tract. One or more Owners may bring a class action on behalf of all Owners.

After giving not less than ten (10) days prior written notice to an Owner who has not complied, and after giving such party the opportunity to be heard by the Board of Directors, the Board of Directors shall have the right to impose a fine of not more than Two Hundred Dollars (\$200.00) for the second violation attributable to a particular owner in a calendar year against that Owner and the Condominium Unit in which such Owner holds an ownership interest. For a third violation attributable to the same Owner in the same calendar year (whether or not this third violation involves the same term or provision of the above-described condominium instruments as the first or second violations), the Board of Directors, after giving the above-described notice and opportunity to be heard, may levy a fine against that Owner and the Condominium Unit in which such Owner holds an ownership interest in an amount not in excess of Four Hundred Dollars (\$400.00). For the fourth and every subsequent such violation of said condominium

instruments by the same Owner in the same calendar year (whether these violations involve the same provisions as the previous violations), the Board of Directors, after giving the above-described notice and opportunity to be heard, may levy a fine against that Owner and the Condominium Unit in which such Owner holds an ownership interest in double the amount of the fine for the immediately preceding violation in that calendar year.

All fines described above, any fines imposed by the Board of Directors and any and all expenses incurred by the Corporation in enforcing any of the terms and provisions of the condominium instruments, including reasonable attorney's fees, may be levied as a special assessment against the Owner in question and his Condominium Unit.

Any action brought by the Corporation hereunder may be brought in its own name, in the name of its Board of Directors or in the name of the Managing Agent. In any case of flagrant or repeated violation by an Owner, he may be required by the Board of Directors to give sufficient surety or sureties for his future compliance with the covenants, conditions and restrictions contained in this Declaration and with the By-Laws and Rules and Regulations.

Section 6.04. Right of Entry. All Owners and occupants of a Condominium Unit shall be deemed to have granted the right of entry thereto to the Declarant, the Managing Agent or any other person authorized by the Board in case of any emergency originating in or threatening his Condominium Unit or the Building in which it is located, whether the Owner is present at the time or not. Any Owner shall permit other persons, or their representatives when so required, to enter his Condominium Unit for the purpose of performing installations, alterations or repairs to the mechanical or electrical services, or to make structural repairs provided that requests for entry are made in advance and that such entry is at a time reasonably convenient to the Owner. In case of emergencies, such right of entry shall be immediate.

Section 6.05. Right of Board to Adopt Rules and Regulations. The Board may promulgate and adopt such additional rules and regulations regarding the operating of the Property, including but not limited to the use of the Common Areas and Limited Common Areas, as it may deem necessary from time to time and such rules as are adopted may be amended by a vote of a majority of the Board, and the Board shall cause copies of such rules and regulations and all amendments thereto to be delivered or mailed promptly to all Owners. Such rules may further restrict the provisions contained in these By-Laws.

ARTICLE VII

Amendment to By-Laws

Section 7.01. Amendment to By-Laws. Subject to any contrary, overriding or superseding provisions set forth herein or in the Declaration, these By-Laws may be amended in the same manner, and subject to the same limitations and requirements, as amendments to the Declaration, as set forth in paragraph 18 of the Declaration. Amendments to these By-Laws shall be considered as amendments of the Declaration and shall be recorded in the office of the Recorder of Hendricks County, Indiana, as required by the Declaration and the Act. Notwithstanding anything to the contrary contained herein or in the Declaration, there shall be no amendment of the Declaration or these By-Laws prior to the Applicable Date without the consent and approval of Declarant.

Section 7.02. Amended and Restated By-Laws. An amended and restated By-Laws, containing the original By-Laws and all amendments theretofore made, may be executed any time or from time to time by a majority of the then Board of Directors and shall, upon recording in the office of the Recorder of Hendricks County, Indiana, be conclusive evidence of all

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amendments contained therein and may thereafter be referred to in lieu of the original By-Laws and the various amendments thereto.

ARTICLE VIII

Mortgages

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

The Corporation shall, upon request of a Mortgagee who has furnished the Corporation with its name and address as hereinabove provided, furnish such Mortgagee with written notice of any default in the performance by its borrower of any obligations of such borrower under the Declaration or these By-Laws which is not cured within sixty (60) days, any proposed termination of the Condominiums or any condemnation or casualty loss that affects either a material portion of The Springs at Saratoga or the Condominium Unit securing its mortgage, any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained

by the Corporation, any proposed action that requires the consent of a specified percentage of Mortgagees, and any proposed amendment to the Declaration or these By-Laws effecting a change in (i) the boundaries of any Condominium Unit or the exclusive easement rights appertaining thereto, (ii) the interests in the Common Areas or Limited Common Areas appertaining to any Condominium Unit or the liability for Common Expenses appertaining thereto, (iii) the Percentage Vote appertaining to a Condominium Unit, or (iv) the purposes for which any Condominium Unit or the Common Areas are restricted. Any Mortgagee shall have the right to inspect the books and records of the Corporation during normal business hours.

A guarantor or insurer of a Mortgage may, upon written request to the Corporation giving the Corporation its name and address, receive from the Corporation any notice that would be given to a Mortgagee also be given to the applicable insurer or guarantor.

Section 8.02. Notice of Unpaid Assessments. The Corporation shall, upon request of a Mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Condominium Unit, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Regular Assessments or Special Assessments against the Condominium Unit, which statement shall be binding upon the Corporation and the Owners, and any Mortgagee or grantee of the Condominium Unit shall not be liable for nor shall the Condominium Unit conveyed be subject to a lien for any unpaid assessments in excess of the amount set forth in such statement or as such assessments may be adjusted upon adoption of the final annual budget, as referred to in Section 5.03 hereof.

ARTICLE IX

Miscellaneous

Section 9.01. Fiscal Year. The fiscal year of the Corporation shall be the calendar year.

Section 9.02. Membership Certificates. Each member of the Corporation shall receive a certificate from the Corporation, signed by the President or Vice-President, and Secretary or Assistant Secretary thereof, stating that he is a member of the Corporation. Such certificates shall be non-transferable and a member's certificate shall become void and of no force and effect upon sale by a member of his Condominium Unit. Such membership certificates shall be in a form and style determined by the Board.

Section 9.03. Personal Interests. No member of the Corporation shall have or receive any earnings from the Corporation as a result of being an officer or director of the Corporation except a member may receive principal and interest on moneys loaned or advanced to the Corporation as provided in the Statute.

Section 9.04. Contracts, Checks, Notes, Etc. All contracts and agreements entered into by the Corporation and all checks, drafts and bills of exchange and orders for the payment of money shall, in the conduct of the ordinary course of business of the Corporation, unless otherwise directed by the Board of Directors, or unless otherwise required by law, be signed by the President or in his absence the Treasurer. Any one of the documents heretofore mentioned in this section for use outside the ordinary course of business of the Corporation or any notes or bonds of the Corporation shall be executed by and require the signature of the President and Secretary.

Section 9.05. Financial Statements. Upon the written request from any entity that has an interest or prospective interest in any Condominium Unit, the Corporation shall prepare and furnish to such entity within a reasonable time a financial statement of the Corporation for the immediately preceding fiscal year.

EXHIBIT D

Percentage Interest

<u>Building</u>	<u>Unit</u>	<u>Square Footage</u>	<u>Percentage Interest</u>
9	A	1,747	7.55%
9	B	2,105	9.11%
9	C-1	1,886	8.15%
9	C-2	1,886	8.15%
9	D	1,968	8.51%
9	E	1,972	8.53%
12	A	1,747	7.55%
12	B	2,105	9.11%
12	C-1	1,886	8.15%
12	C-2	1,886	8.15%
12	D	1,968	8.51%
12	E	1,972	8.53%

