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**MASTER AMENDMENT TO DECLARATION  
OF CONDOMINIUM OWNERSHIP FOR  
WYTHE PARISH CONDOMINIUM**

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I hereby certify that copies of the within Declaration has been filed in the office of the Auditor, Montgomery County, Ohio.

Dated: 3/19, 2010

By: Karl L. Keith  
Montgomery County Auditor

NO PLAT

THIS INSTRUMENT PREPARED BY:

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NO TRANSFER NEEDED  
10 MAR 19 AM 10:45  
KARL L. KEITH  
AUDITOR

**DECLARATION**  
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**MASTER AMENDMENT TO  
DECLARATION OF CONDOMINIUM  
OWNERSHIP FOR WYTHE PARISH CONDOMINIUM**

**THIS MASTER AMENDMENT TO DECLARATION FOR WYTHE PARISH CONDOMINIUM**, made on the date hereinafter set forth by the owners of one hundred percent (100%) of the condominium ownership interests within Wythe Parish Condominium, hereinafter referred to as the "Consenting Owners", under the circumstances summarized in the following Recitals. The capitalized terms used in the Recitals are defined in Article I of this document.

**RECITALS**

A. On September 1, 1971 certain premises located in the City of Centerville, County of Montgomery and State of Ohio were submitted to the provisions of Chapter 5311 of the Ohio Revised Code for condominium ownership by filing with the Montgomery County Recorder a legal instrument with attached exhibits titled "Declaration Creating and Establishing a Plan for Condominium Ownership for Wythe Parish Condominium and Imposing Covenants, Conditions and Restrictions", hereinafter referred to as the "Declaration". Said Declaration was previously filed with the Auditor of Montgomery County, Ohio.

B. The Declaration was subsequently amended. For purposes hereof, the term Declaration shall refer to the Declaration, as amended by any subsequent Recorded Amendment.

C. The Condominium consists of Units One, Two, Three, Four and Five of Section One, Units One, Two, Three, Four, Five and Six of Section Two, and Units One, Two, Three, Four, Five, Six, Seven, Eight, Nine and Ten of Section Three, together with their undivided interest in the common elements and facilities of Wythe Parish Condominium, as the same are shown of record upon the drawings and described in the Declaration of said Condominium, and amendments thereto, which are recorded in the records of Montgomery County, Ohio as follows:

<u>Instrument</u>	<u>Deed Records</u>	<u>Plat Records</u>
Declaration	71-413-B10	Book 91, Page 14
First Amendment	72-129-C08	Book 92, Page 11
Second Amendment	72-531-A01	Book 99, Page 3
Third Amendment	89-618-A01	None
Fourth Amendment	00-104213	None
Fifth Amendment	02-024499	None
Sixth Amendment	06-037057	None

D. The Consenting Owners, as Unit Owners and Members, do hereby desire to amend the provisions of the Declaration and By-Laws.

## DECLARATIONS

**NOW, THEREFORE**, the Consenting Owners do hereby amend the Declaration and By-Laws, by deleting any and all parts thereof, except for those provisions and/or Exhibits which are specifically referred to and retained by reference herein.

### ARTICLE I DEFINITIONS

**1.01** General. The following terms used in the Declaration and By-Laws are defined as hereinafter set forth.

**1.02** Amendment and/or Amendments shall mean an instrument executed with the same formalities of the Declaration and Recorded for the purpose of amending the Declaration, the By-Laws or any other Exhibits thereto.

**1.03** Articles and/or Articles of Incorporation shall mean the articles filed with the Secretary of State of Ohio incorporating the Association as an Ohio not-for-profit corporation under the provisions of Chapter 1702. of the Ohio Revised Code, as the same may be lawfully amended from time to time.

**1.04** Association shall mean Wythe Parish Homeowners Association, Inc., an Ohio not-for-profit corporation, its successors and assigns.

**1.05** Board shall mean those persons who, as a group, serve as the board of directors of the Association.

**1.06** Building shall mean a structure constructed on the Condominium Property.

**1.07** By-Laws shall mean the By-Laws of the Association, which are attached hereto as Exhibit "A" as the same may be lawfully amended from time to time, created under and pursuant to the provisions of Chapter 5311 of the Ohio Revised Code for the Condominium and which also serve as the code of regulations of the Association under and pursuant to the provisions of Chapter 1702 of the Ohio Revised Code.

**1.08** Common Assessments shall mean the assessments charged proportionately on the basis of Percentage of Ownership against all Units for common purposes.

**1.09** Common Elements shall mean all the Condominium Property except that which is specifically defined and referred to as a Unit.

**1.10** Common Expenses shall mean those expenses designated as such by Chapter 5311 of the Ohio Revised Code, or in accordance with the provisions of the Declaration, including Per Unit Expenses.

**1.11** Condominium shall mean Wythe Parish Condominium, the condominium regime for the Condominium Property created under and pursuant to the provisions of Chapter 5311 of the Ohio Revised Code.

**1.12** Condominium Organizational Documents shall mean the Declaration, Exhibits and Rules and Regulations as the same may be lawfully amended from time to time.

**1.13** Condominium Ownership Interest shall mean a fee simple estate or a ninety-nine year leasehold estate, renewable forever, in a Unit, together with an appurtenant undivided interest in the Common Element.

**1.14** Condominium Property shall mean land, the buildings, improvements and structures on the land, all easements, rights and appurtenances belonging to the land, and all articles of personal property submitted to the provisions of Chapter 5311 of the Ohio Revised Code by this Declaration.

**1.15** Consenting Owners shall mean those Unit Owners listed in Exhibit "B" attached hereto.

**1.16** Declaration shall mean this instrument and any and all Amendments.

**1.17** Drawings shall mean those drawings which are Recorded at Plat Book 91, Page 14 ("Section One Drawings"), Plat Book 92, Page 11 ("Section Two Drawings") and Plat Book 99, Page 3 ("Section Three Drawings").

**1.18** Exhibit shall mean any document or instrument attached to the Declaration.

**1.19** Garage Space(s) shall mean the interior space within an attached or detached garage as shown on the Drawings.

**1.20** Good Standing shall mean that a Unit Owner is not delinquent in the payment of any assessment or in default or breach of any provisions of the Condominium Organizational Documents.

**1.21** Limited Common Elements shall mean and include those Common Elements designated in this Declaration and in an Amendment as reserved for the use of a certain Unit or Units to the exclusion of the other Units.

**1.22** Majority of Unit Owners shall mean those Unit Owners holding fifty-one percent (51%) of the voting power of the Association.

**1.23** Managing Agent shall mean a manager or managing agent retained or employed by the Association pursuant to the provisions of the Declaration.

**1.24** Member, depending on its context, shall mean a Unit Owner that is subjected hereto and/or a member of the Association.

**1.25** Occupant means a person lawfully residing in a Unit, regardless of whether that person is a Unit Owner.

**1.26** Ohio Condominium Act means Chapter 5311 of the Ohio Revised Code, the statutory law of the State of Ohio regulating the creation and operation of Condominiums.

**1.27** Patio Area(s) shall mean the area adjacent to a particular Unit as designated and depicted in the Drawings measured and/or determined from the exterior walls or foundations of the Building.

**1.28** Per Unit Expenses shall mean Common Expenses that arise out of the following, which are not allocated, on a Percentage of Ownership but on an equal per Unit basis:

(a) Expenses that arise out of the administration, operation, maintenance, repair and replacement of security, telecommunications, rubbish removal, roads, entrances, recreation facilities, if any, landscaping, and grounds care;

(b) Legal, accounting and management expenses.

**1.29** Percentage of Ownership shall mean the ownership interest of each Unit in the Common Elements as set forth in the Declaration.

**1.30** Person shall mean a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

**1.31** Quorum shall mean the presence in person or by proxy of a Majority of Units Owners in Good Standing.

**1.32** Recorded shall mean the recording with the Recorder of Montgomery County, Ohio.

**1.33** Rules and Regulations shall mean those rules and regulations as may be amended from time to time adopted by the Board pursuant to Section 10.01.

**1.34** Special Individual Unit Assessment shall mean an assessment levied or charged by the Board against a Unit or Units pursuant to the provisions of the Declaration which provides that a particular Unit or Units may be responsible for expenses, charges or costs which are not chargeable or assessable against all Units in the Condominium.

**1.35** Unit shall mean a part of the Condominium Property consisting of one (1) or more rooms on one (1) or more floors of a Building which are designated a Unit by this Declaration and are delineated on the Drawings.

**1.36** Unit Owner shall mean a Person who owns a Condominium Ownership Interest in a Unit.

## **ARTICLE II**

### **NAME, PURPOSE AND ADMINISTRATION**

**2.01** Name. The Condominium Property shall be known as Wythe Parish Condominium.

**2.02** Purpose. The Condominium Property shall be used for single family residence purposes and common recreational purposes auxiliary thereto and for no other purpose; provided, however, (i) that consistent with applicable zoning, professional and quasi-professional Occupants may use a Unit as an auxiliary or secondary facility to an office established elsewhere; (ii) as a Home Occupation consistent with applicable zoning requirements; and an Occupant maintaining a personal or professional library, keeping personal, business or professional telephone calls or correspondence, in or from a Unit, is engaging in a use expressly declared customarily incidental to principal residential use and is not in violation of these restrictions.

**2.03** Administration. The Condominium Property shall be administered in accordance with the provisions of the Condominium Organizational Documents, as the same may be amended from time to time. Each Unit Owner or Occupant shall comply with the provisions of the Condominium Organizational Documents, together with the decisions and resolutions of the Board.

## **ARTICLE III**

### **LEGAL DESCRIPTION OF PREMISES**

**3.01** Legal Description. The real property subject to this plan for condominium ownership is set forth in Exhibits "A" of the Declaration and the First,

Second and Fourth Amendments to the Declaration, which are incorporated herein by reference, together with and subject to any Recorded Amendments.

**ARTICLE IV**  
**DESCRIPTION AND LOCATION OF BUILDING(S)**

**4.01**        **Description.** There are a total of eight (8) Buildings on the Condominium Property containing Units and/or Garage Spaces. The Building designations and Units and/or Garage Spaces located therein are set forth as follows:

- (a) Building 1 is two (2) stories in height, with basements, containing five (5) Units.
- (b) Building 1(a) is one (1) story in height containing two (2) Garage Spaces and a storage area.
- (c) Building 1(B) is one (1) story in height containing two (2) Garage Spaces.
- (d) Building 2 is two (2) stories in height, with or without basements, containing three (3) Units, and two (2) attached Garage Spaces.
- (e) Building 2A is one (1) story in height, containing two (2) Garage Spaces.
- (f) Building 3 is two (2) stories in height, with basements, containing three (3) Units and attached Garage Spaces.
- (g) Building 3(a) is one (1) story in height, containing two (2) Garage Spaces and a pool supply area.
- (h) Building 4 is two (2) stories in height, with basements, containing four (4) Units, and four (4) attached Garage Spaces.
- (i) Building 5 is partially one (1) and two (2) stories in height, with or without basements, containing four (4) Units, and four (4) attached Garage Spaces.
- (j) Building 6 is two (2) stories in height, with basements, containing two (2) Units, and two (2) attached Garage Spaces.

**4.02**        **General.** The buildings are built on a block walls or a concrete slab, with frame exterior walls, with some brick veneer, stucco and siding, windows, a wood truss roof with asphalt shingle or wood covering, wood floor joists, wall studs and drywall.

**4.03**        **Location.** The buildings have direct access to Lyons Drive, through the Common Elements, a public roadway.

**ARTICLE V**  
**DESCRIPTION OF UNITS**

**5.01**        **General.** Each of the Units within this Declaration shall consist of all of the space bounded by the undecorated surfaces of the perimeter walls, the unfinished surface of the lower floor, and the unfinished interior surface of the roof deck, all projected, if necessary by reason of structural divisions such as interior walls and partitions to constitute a complete enclosure of space, and all improvements within that space, the dimensions and descriptions of each such Unit being shown on the Drawings including without limitation:

(a)        The decorated surfaces, including paint, lacquer, varnish, wallpaper, tile and other finishing material(s) applied to the interior surface of such perimeter walls, floors and ceilings;

(b)        All windows, skylights (including flashing), screens and doors, including the frames, sashes and jams and the space occupied thereby and as hardware therefore;

(c)        All fixtures and appliances located within the bounds of a Unit, installed in and for the exclusive use of said Unit, commencing at the point of disconnection from the structural body of the building(s) or from the point of disconnection of utility pipes, lines or systems serving the entire building(s) or more than one Unit thereof, whichever may be applicable; including without limitation, built-in cabinets, dishwashers, garbage disposal units, and components thereof, if any, even if located outside the bounds of the Unit, serving only that Unit;

(d)        All control knobs, switches, thermostats and base plugs, floor plugs and connections affixed to or projecting from the walls, floors and ceilings which service either the Unit or the fixtures located therein, together with the space occupied thereby;

(e)        All interior walls, floors and ceilings;

(f)        All plumbing, electric, heating, security, alarm, vacuum, cooling and other utility lines, pipes, wires, ducts or conduits which exclusively serve either the Unit or the fixtures located therein, and which are located within the bounds of the Unit, or within the exterior walls of that Unit.

But excepting therefrom, any structural element of the building contained in interior walls and all plumbing, electric, heating, cooling and other utility service lines, pipes, wires, ducts or conduits which are located within the bounds of a Unit but which do not exclusively serve any other Unit.

**5.02**      **Type of Units.** There are different types of Units designated as follows:

<u>Unit</u>	<u>Section</u>	<u>Building</u>	<u>Type or Model</u>
One	One	1	150
Two	One	1	152
Three	One	1	154
Four	One	1	156
Five	One	1	158
One	Two	2	170
Two	Two	2	172
Three	Two	2	174
Four	Two	3	56
Five	Two	3	54
Six	Two	3	52
One	Three	4	53
Two	Three	4	55
Three	Three	4	57
Four	Three	4	59
Five	Three	5	63
Six	Three	5	65
Seven	Three	5	67
Eight	Three	5	180
Nine	Three	6	71
Ten	Three	6	73

**ARTICLE VI**  
**DESCRIPTION OF COMMON ELEMENTS**

**6.01**      **General.** The entire balance of the land and improvements thereon, including but not limited to the Buildings and all components thereof, the driveways, pool, parking areas, signage, landscaping (excluding foundation plantings), fencing, sump pumps serving more than one (1) Unit, exterior lighting, front steps, sidewalks, utility lines and ducts now or hereafter situated on the Condominium Property are hereby declared and established as the Common Elements.

**6.02**        **Easements**. The Common Elements shall include and be subject to any easements granted or reserved on the Condominium Property.

**6.03**        **Status**. All Common Elements included in the Condominium subjected by the Declaration are fully installed, completed and in operation for the use of the Unit Owners.

**ARTICLE VII**  
**DESCRIPTION OF LIMITED COMMON ELEMENTS**

**7.01**        **General Uses**. All plumbing, electrical, heating, cooling and other utility service lines, pipes, wires and ducts and conduits, and all telephone, communication or cable lines which serve only one (1) Unit shall be Limited Common Elements for the exclusive use of the Unit served thereby.

**7.02**        **Specific Uses**. The areas hereinafter described, included within the Common Elements appurtenant to a Unit, are deemed Limited Common Elements designated as reserved for the exclusive use of the appurtenant Unit or Units as hereinafter set forth.

(a)        The back entranceways, stairways and stoops are designated as Limited Common Elements for the Unit(s) adjoining such entranceway, stairway and stoop.

(b)        The air conditioning pad, compressor, duct and conduits thereto are designated as Limited Common Elements for the Unit being serviced by such equipment.

(c)        The Garage Spaces designated in Exhibit "C" attached hereto shall be Limited Common Elements to the Units designated in such Schedule A.

(d)        The Patio Areas designated in Schedule A attached hereto shall be Limited Common Elements to the Units designated in such Schedule A.

(e)        The exterior mailboxes, flagpoles or other decorative accents attached to the exterior of a Building.

(f)        The foundation plantings, including shrubs, bushes, annual and perennial plants and flowers, and edible crops for personal consumption immediately adjacent to the foundation or along the fence line of a Unit.

**ARTICLE VIII**  
**USE OF COMMON ELEMENTS**

**8.01**        **General.** Each Unit Owner shall own an undivided interest in the Common Elements as a tenant in common with all other such Unit Owners and, except as otherwise limited in this Condominium Organizational Documents, shall have the right to use the Common Elements for all purposes incidental to the use and occupancy of his Unit as a place of residence and such other incidental uses as permitted by this Condominium Organizational Documents, including the non-exclusive perpetual easement together with other Unit Owners to the use and enjoyment of the Common Elements and for ingress and egress to and from their respective Units, which right shall be appurtenant to and shall run with his Unit.

**ARTICLE IX**  
**OWNERSHIP OF COMMON ELEMENTS**

**9.01**        **Percentage of Ownership.** The Percentage of Ownership of the Common Elements attributable to the ownership interest in each Unit and for the division of Common Profits, Common Surplus and Common Expenses is set forth as follows:

<b><u>Unit No.</u></b>	<b><u>Percentage of Ownership</u></b>	<b><u>Unit No.</u></b>	<b><u>Percentage of Ownership</u></b>
One, Section 1	5.4%	One, Section 3	4.4%
Two, Section 1	3.7%	Two, Section 3	5.2%
Three, Section 1	3.7%	Three, Section 3	4.4%
Four, Section 1	4.0%	Four, Section 3	4.4%
Five, Section 1	5.4%	Five, Section 3	4.4%
One, Section 2	4.4%	Six, Section 3	4.4%
Two, Section 2	4.4%	Seven, Section 3	4.4%
Three, Section 2	5.9%	Eight, Section 3	6.0%
Four, Section 2	4.4%	Nine, Section 3	5.4%
Five, Section 2	4.4%	Ten, Section 3	7.0%
Six, Section 2	4.3%		

**9.02**        **Computation.** Each Unit's Percentage of Ownership as herein set forth was determined on a fair value concept and set forth in the Third Amendment to the initial Declaration.

**9.03**        **Amendment.** Except as specifically provided for in this Declaration, the Percentage of Ownership as herein set forth shall not be altered except by an Amendment unanimously approved by all Unit Owners.

**ARTICLE X**  
**REGULATION OF COMMON ELEMENTS**

**10.01**        **General.** The Board may, by majority vote, adopt reasonable Rules and Regulations and may amend the same which the Board may deem advisable for the maintenance, conservation and beautification of the Condominium Property and for the health, comfort, safety and general welfare of the Unit Owners and Occupants. Written notice of the Rules and Regulations and copies thereof shall be made available to all Unit Owners and Occupants.

**10.02**        **Penalties and Fines.** The Rules and Regulations may establish reasonable fines and penalties for violations of such Rules and Regulations. Any such fines and penalties shall be considered a Special Individual Unit Assessment against the Unit for which it is imposed or charged.

**10.03**        **Restrictions.** The Association shall have the right to impose certain restrictions on the use of the Common Elements, including the right to suspend such use if a Unit Owner is delinquent in his assessments.

**10.04**        **Conflict.** In the event of any conflict between the Rules and Regulations and the provisions of the Condominium Organizational Documents, the provisions of the Condominium Organizational Documents shall govern.

**ARTICLE XI**  
**RESTRICTIONS ON THE USE OF CONDOMINIUM PROPERTY**

**11.01**        **Obstruction of Common Elements.** There shall be no obstruction of the Common Elements nor shall anything be stored in or on the Common Elements without the prior consent of the Board, except as hereinafter expressly provided.

**11.02**        **Hazardous Uses and Waste.** Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance on the Building or contents thereof applicable for residential use, without the prior written consent of the Board. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Elements which will result in the cancellation of insurance on the Building or contents thereof, or which would be in violation of any law.

**11.03**        **Exterior Surfaces of Building.** Unit Owners shall not cause or permit anything to be hung or displayed on the outside of windows or placed on the outside walls of the Building, except mailboxes and flagpoles and no sign, awning, canopy, shutter, radio or television antenna or receiving dish or disk shall be affixed to or placed upon the exterior walls or roof or any part thereof without the prior consent of the Board.

The Board may adopt Rules and Regulations controlling the items which may be hung or displayed on the interior of the windows, or the exterior of a Unit, including but not limited to the color or style of any mailbox, flagpole or other approved decorative accent.

**11.04**        **Nuisances**. No noxious or offensive activity, including without limitation, excessive noise, shall be carried on in any Unit or in the Common Elements nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance, safety hazard or nuisance to the other Unit Owners or occupants.

**11.05**        **Impairment of Structural Integrity of Building**. Nothing shall be done in any Unit or in, on or to the Common Elements which will impair the structural integrity of the building or which would change the building.

**11.06**        **Laundry or Rubbish in the Common Elements**. No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of the Common Elements. The Common Elements shall be kept free and clear of rubbish, debris and other unsightly materials.

**11.07**        **Use of Common Elements**. Use of the Common Elements shall be subject to the Rules and Regulations.

**11.08**        **Storage in or on Common Elements**. There shall be no lounging, parking of camper's or boats, inoperable vehicles, trucks, motorcycles, baby carriages, playpens, bicycles, wagons, toys, vehicles, benches or chairs on any part of the Common Elements except in accordance with the Rules and Regulations.

**11.09**        **Prohibited Activities**. Other than Home Occupations, as permitted by Section 9.43 of the City of Centerville Unified Development Ordinance or any amendment thereto, no unit Owner or Occupant shall be regularly engaged in any business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designated for profit, altruism, exploitation or otherwise on any part of the Condominium Property. No signs or other window displays or advertising shall be maintained or permitted on any part of the Condominium Property, except for "For Sale" signs, subject to the Rules and Regulations.

**11.10**        **Alteration**. Nothing shall be altered, constructed in or removed from the Common Elements or a Unit except as hereinafter provided and except upon the written consent of the Board. The Board may delegate their authority hereunder to an architectural review committee.

**11.11**        **Rental and Leasing**. No Unit shall be leased or rented.

**11.12**        **Animals and Pets.** No animals, rabbits, livestock, fowl or poultry of any kind shall be raised, bred or kept in any Unit or in the Common Elements, except that dogs, cats or other household pets may be kept in Units, subject to the Rules and Regulations, provided that they are not kept, bred or maintained for any commercial purpose, and provided further, that any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Condominium Property subject to these restrictions upon three (3) days written notice from the Board.

**11.13**        **Landscaping.** Any landscaping including decorative items situated on the Limited Common Elements shall be subject to Rules and Regulations that may require the prior approval of the Board.

## **ARTICLE XII** **CONVEYANCES**

**12.01**        **General.** Each Unit shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions hereof. The undivided interest of a Unit in the Common Elements shall be deemed to be conveyed or encumbered with the Unit even though that interest is not expressly mentioned or described in the deed, mortgage or other instrument of conveyance or encumbrance. The right of a Unit Owner to sell, transfer or otherwise convey that owner's Unit is not subject to any right of first refusal or similar restrictions, and any Unit Owner may transfer that owner's Unit free of any limitations.

**12.02**        **Records.** To enable the Association to maintain accurate records of the names and address of Unit Owners, each Unit Owner is required, at the following times, to provide the Association, by delivery to the office of the Association or to any member of the Board, written notice of the name, home address, home and business mailing addresses, and the home and business telephone numbers of the Unit Owner and all Occupants and the name, business address and business telephone number of any person who manages the Owner's Unit as an agent of that Owner:

- (a)        Within thirty (30) days after the Unit Owner accepts delivery of a deed to a Unit;
- (b)        Within thirty (30) days after a change in any of the above-described information; and
- (c)        At any time that the Board requests verification or updating of the above-described information.

**12.03**        **Documents.** Each Unit Owner shall provide to a purchaser of that owner's Unit and/or a tenant of such Unit a copy of the Condominium Organization Documents in such Owner's possession.

**ARTICLE XIII**  
**UNIT OWNERS' ASSOCIATION**

**13.01      General.** The Association was formed to administer the Condominium Property. The Association shall be governed by the Condominium Organizational Documents. The Board and the officers of the Association elected as provided in the By-Laws shall exercise the powers, discharge the duties, and be vested with the rights conferred by operation of law, the By-Laws and by this Declaration, upon the Association except as otherwise specifically provided. In the event any such power, duty or right shall be deemed exercisable or dischargeable by or vested in an officer or member of the Board, he shall be deemed to act in such capacity to the extent required to authenticate his acts and to carry out the purposes of the Condominium Organizational Documents.

**13.02      Membership in the Association.** Membership in the Association is limited to Unit Owners. Each Unit Owner, upon acquisition of title to a Unit, shall automatically become a Member. The foregoing is not intended to include persons or entities that hold an interest merely as security of an obligation. Such membership shall terminate upon the sale or other disposition by such Member of his Condominium Ownership Interest, at which time the new Unit Owner shall automatically become a Member.

**13.03      Voting Rights.** There shall be one (1) vote for each of the Units comprising the Condominium Property. The Unit Owner or Unit Owners of each Unit shall be entitled to one (1) vote for their Unit. In the event a Unit has been acquired by the Association in its own name or in the name of its agent, designee or nominee on behalf of all Unit Owners, the voting rights of such Unit shall not be exercised so long as it continues to be so held. If two (2) or more persons, whether fiduciaries, tenants in common or otherwise own individual interests in a Unit, each may exercise the proportion of the voting power of all of the owners of the Unit that is equivalent to his proportionate interest in the Unit; provided, however that unless timely challenged by a Unit Owner of a fee simple interest in a Unit, any Unit Owner of a fee simple interest in that Unit may cast the entire vote with respect to that Unit.

**13.04      Service of Process.** The Person to receive service of process for the Association shall be designated by the Board and registered as the statutory agent with the Secretary of State of Ohio.

**13.05      Limitations.** The Association shall not authorize any structural alterations, capital additions to or capital improvements of the Common Elements requiring any expenditure in excess of \$2,000.00 without in each case the prior approval of a Majority of Unit Owners. This limitation may be amended from time to time by the Unit Owners at their annual meeting.

**13.06**      **No Active Business to be Conducted for Profit.** Nothing contained in this Declaration or in the By-Laws shall be construed to give the Association authority to conduct active business for profit on behalf of the Unit Owners.

**13.07**      **Delegation of Duties.** The Board may and has the authority to delegate to persons, firms or corporations of its choice, such administrative duties and responsibilities of the Association as it may from time to time specify and to provide for reasonable compensation for the performance of such duties and responsibilities. Policy making decisions or functions shall only be made or performed by the Board.

#### **ARTICLE XIV** **AMENDMENT OF DECLARATION AND BY-LAWS**

**14.01**      **General.** Unless otherwise specifically provided for herein, this Declaration and the By-Laws may be amended only upon the affirmative vote of the Unit Owners entitled to exercise at least seventy-five percent (75%) of the voting power of the Association. Any Amendment must be Recorded. Such Amendment must be executed with the same formalities as this Declaration and must refer to the microfiche number in which this Declaration and its attached Exhibits are Recorded.

**14.02**      **Mortgage or Mortgagee.** Any Amendment which adversely affects the value, priority or the security of any mortgagee of record shall require the written consent of such mortgagee of record. Any Amendment affecting the underwriting requirements of any mortgagee shall require the written consent of such mortgagee and also F.H.L.M.C. or F.N.M.A. if required by such mortgagee. Any Amendment affecting language specifically referring to mortgagees shall require the written consent of all mortgagees of record.

#### **ARTICLE XV** **MANAGEMENT, MAINTENANCE, REPAIRS, ALTERATIONS AND IMPROVEMENTS**

**15.01**      **Association.** Except as otherwise provided herein, management, maintenance, repairs, alterations and improvements of the Common Elements shall be the responsibility of the Association.

**15.02**      **Delegation to Managing Agent.** The Association may delegate all or any portion of its authority to discharge its responsibility to a Managing Agent, subject to the limitations that:

(a) Any such delegation be by a written consent with a term of not longer than one (1) year in duration.

(b) That any such contract is terminable by either party without cause upon sixty (60) days written notice without any termination charges or other penalties.

**15.03**      **Mortgagee.** A Managing Agent may be required by any lending institution holding first mortgages on over fifty-one percent (51%) of the Units, or by any group of lending institutions who in the aggregate hold first mortgages on over fifty-one percent (51%) of the Units. The Association shall provide such mortgagee or mortgagees, as the case may be, with a copy of any management agreement entered into by the Association and a Managing Agent.

**15.04**      **Unit Owner.** The responsibility of each Unit Owner shall be as follows:

(a) To maintain, repair and replace, at his expense, all portions of his Unit and all internal installations of such Unit such as appliances, heating, plumbing, electrical and air conditioning fixtures or installations, and any other utility service facilities located within the Unit boundaries and which exclusive serve such Unit.

(b) To maintain, repair and replace, at his expense, all windows, screens and doors, including the frames, sashes, caulking, hardware and jams.

(c) To maintain, repair and replace at his expense, those areas or items which are designated as Limited Common Elements for the exclusive use of such Unit Owner.

(d) To maintain, repair and replace, at his expense, all portions of the Common Elements which may be damaged or destroyed by reason of the willful or uninsured negligent act or neglect of himself, or by the willful or uninsured negligent act or neglect of any invitee, licensee or guest of such Owner.

(e) To perform his responsibilities in such a manner so as not to unreasonably disturb other persons residing within the Condominium Property.

(f) To perform his responsibilities in accordance with all applicable governmental standards and/or regulations, including but not limited to assuring that the Unit has operable fire detection alarms on all levels and that the unit is free from insect infestation.

(g) To promptly report to the Association or its Managing Agent any defect or need for repairs, the responsibility of which is with the Association.

(h) Not to make any alterations in the portions of the Unit or the building which are to be maintained by the Association or remove any portion thereof or make any addition thereto, or do anything which would or might jeopardize or impair the safety or soundness of the building, without first obtaining the written consent of the Board and of the Unit Owner or Unit Owners of whose benefit such easement exists.

**15.05**      **Exterior Surfaces.** Any exterior maintenance, repair or replacements to be performed by a Unit Owner shall be subject to the prior approval of the Board or its delegated committee. The Board may adopt guidelines or other criteria setting forth standards for such maintenance, repair or replacement. Pursuant to such standards, the Board or its committee may require that only certain types and/or manufacturers be used for replacements to the exterior surfaces in order to assume conformity.

**15.06**      **Failure to Maintain.** In the event a Unit Owner shall fail to maintain his Limited Common Element to such extent that in the opinion of the Board the conditions require maintenance, repair or service for purposes of protecting the public safety or residents in or visitors to the Condominium, or in order to prevent or avoid damage or destruction of any part, portion or aspect of the value thereof, the Association shall have the right, upon approval of the majority of the Board, to enter upon that Limited Common Element and inspect, maintain, repair or service the same. The cost of such inspection maintenance, repair or service shall be added to and become a Special Individual Unit Assessment chargeable to such Unit.

**15.07**      **Construction Defects.** The obligation of the Association and of the Unit Owners to repair, maintain and replace the portions of the property for which they are respectively responsible shall not be limited, discharged or postponed by reason of the fact that any maintenance, repair or replacement may be necessary to cure any latent or patent defects in material or workmanship in the construction of the Condominium Property. The undertaking of repair, maintenance or replacement by the Association or the Unit Owners shall not constitute a waiver of any rights against any warrantor, but such rights shall be specifically reserved.

**15.08**      **Effect of Insurance or Construction Guarantees.** Notwithstanding the fact that the Association and/or any Unit Owner may be entitled to the benefit of any guarantee of material and workmanship furnished by any construction trade responsible for any construction defects, or to benefits under any policies of insurance providing coverage for loss or damage for which they are respectively responsible, the existence of a construction guarantee or insurance coverage shall not excuse any delay by the Association or any Unit Owner in performing his obligations hereunder.

## **ARTICLE XVI** **EASEMENTS**

**16.01**      **Encroachments.** In the event that by reason of the construction, settlement or shifting of any Building or by reason of the partial or total destruction and rebuilding of the Building, any part of the Building presently encroaches or shall hereafter encroach upon any part of the Common Elements, or if by reason of the design or construction of any Unit it shall be necessary or advantageous to a Unit Owner to use or occupy for formal uses and purposes any portions of the Common Elements consisting of unoccupied space within the Building and adjoining his Unit, or if

by reason of the design or construction of utility systems, any main pipes, ducts or conduits serving either any other Unit or more than one Unit, presently encroaches or shall hereafter encroach upon any part of any Unit, then valid easements for the maintenance of such encroachment and for the use of such adjoining space are hereby established and shall exist for the benefit of such Unit and the Common Elements as the case may be, so long as all or any part of the Building shall remain standing; provided however, that no valid easement for any encroachment shall be created in favor of the Unit Owner of any Unit or in favor of the Common Elements, if such encroachment is caused by the willful conduct of said Unit Owner.

**16.02**      **Easements for Repair, Maintenance and Restoration.** The Association shall have a right of access and an easement to, over and through all of the Condominium Property, including each Unit, for ingress and egress and all other purposes which enable the Association to perform its obligations, rights and duties with regard to maintenance, repair and restoration, provided that exercise of this easement, as it affects the individual Units, shall be at reasonable times with reasonable notice to the individual Unit Owners. Any damage resulting to a particular Unit through the provisions of this Article shall be repaired by the Association, the cost of which will be a Common Expense to all of the Unit Owners.

**16.03**      **Easements Through Walls Within Units.** Easements are hereby declared and granted to the Association to install, lay, maintain, repair and replace the pipes, wires, ducts, conduits, public utility lines, or structural components running through the walls of the Units, whether or not such walls be in whole or in part within the Unit boundaries. The Unit Owner shall have the permanent right and easement to and through the Common Elements and walls for the use of water, sewer, power, television antenna and other utilities now or hereafter existing within the walls, and further shall have an easement to hang pictures, mirrors and the like upon the walls of the Unit. Any damage resulting to a particular Unit as a result of the easement herein granted to the Association shall be repaired by the Association, the cost of which will be a Common Expense to all off the Unit Owners.

**16.04**      **Easements for Certain Utilities and Cable Television.** The Association may hereafter grant easements on behalf of Unit Owners to entities for utility, cable television and fiber optic purposes for the benefit of the Condominium Property.

**16.05**      **Service Easements.** An easement is hereby granted to all police, firemen, ambulance operators, mailmen, deliverymen, garbage and trash removal personnel, and all other similar persons and to the local governmental authorities, but not the public in general, to enter upon the Common Elements in the performance of their duties.

**16.06**        **Emergency Easement.** The Association and its Managing Agent shall have a right of entry and easement to any Unit in the case of an emergency originating in or threatening such Unit, whether the Unit Owner is present at the time or not.

**16.07**        **Easements Shall Run With Land.** All easements and rights herein described are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on any Person having an interest in the Condominium Property or any part or portion thereof. Failure to refer specifically to any or all of the easements described in this Declaration in any deed or in any mortgage or other evidence of obligation shall not defeat or fail to reserve said easements, but same shall be deemed conveyed or encumbered along with the Unit.

## **ARTICLE XVII** **HAZARD INSURANCE**

**17.01**        **Fire and Extended Coverage Insurance.** The Association shall obtain and maintain for the benefit of all Unit Owners and mortgagees, insurance on the Buildings, structures or other improvements now or at any time hereafter constituting a part of the Condominium Property against loss or damage by fire, lightning and such perils as are at this time comprehended within the term "extended coverage", with no co-insurance and in an amount not less than one hundred percent (100%) of the replacement value thereof. In the event such policy contains co-insurance provisions, such policy shall contain an agreed amount endorsement. Such insurance shall be written in the name of and the proceeds thereof shall be payable to the Association for each of the Unit Owners and mortgagees for the purposes set forth herein, in accordance with the Percentage of Ownership. Said policy shall be issued by a generally acceptable carrier acceptable to lenders, first mortgagees and their insurers or guarantors. The policy providing such coverage shall provide that no mortgagee shall have any right to apply the proceeds thereof to the reduction of any mortgage debt. Said policy shall also provide that despite any clause that gives the insurer the right to restore damage in lieu of a cash settlement, such right shall not exist in case the Condominium Property is removed from the provisions of the Ohio Condominium Act and shall also provide that the insurer shall have no right to contribution from any insurance which may be purchased by any Unit Owner as hereinafter permitted.

**17.02**        **Qualifications.** The insurance hereunder shall be obtained from an insurance company authorized to write such insurance in the State of Ohio which has a current rating of Class A/VIII or better as determined by the then latest edition of Best's Insurance Reports, or its successor guide, or comparable rating by a nationally recognized rating agency, or such higher rating as may, from time to time, be required by any Underwriter or if the insurer does not satisfy these rating requirements, that insurer is reinsured by a company that has a Class A/VIII or comparable rating or better.

**17.03**        **Prohibition.** No Unit Owner may purchase an individual policy of fire and extended coverage insurance for his Unit or his interest in the Common Elements as real property. If irrespective of this prohibition a Unit Owner purchases an individual policy insuring such Unit or interest, said Unit Owner shall be responsible to the Association for any loss or expense that such policy may cause in adjusting the Association's insurance and such amount of loss shall be a lien on his Unit and enforced in the manner provided for in the Declaration.

**17.04**        **Personal Property.** Each Unit Owner shall be responsible for his own individual insurance coverage on his unit, the contents thereof, improvements or betterments thereto, including without limitation and by illustration the furniture, furnishings, floor coverings or finishes, wall coverings or paint, ceiling finishes or paint, doors or door jambs, personal property supplied or installed or owned by the Unit Owner.

**17.05**        **Certificates and Notice of Cancellation.** Such policy of insurance shall contain provisions requiring the issuance of certificates of coverage and the issuance of written notice not less than thirty (30) days prior to any expiration or cancellation of such coverage to any mortgagee or mortgagees of any Unit.

**17.06**        **Subrogation.** Such policy shall also provide for the release by the issuer thereof of any and all rights of subrogation or assignment and all causes and rights of recovery against any Unit Owner, member of his family, his tenant or other occupant of the Condominium Property, for recovery against any one of them for any loss occurring to the insured property resulting from any of the perils insured against under such insurance policy.

**17.07**        **Mortgagee's Rights.** If the required insurance coverage under this Article ceases to exist for any reason whatsoever, any mortgagee of any portion of the Condominium Property may remedy that lack of insurance by purchasing policies to supply that insurance coverage. The funds so advanced shall be deemed to have been loaned to the Association, shall bear interest at a per annum rate two percent (2%) higher than the basic interest rate in any note secured by the mortgagee's mortgage against a portion of the Condominium Property, and shall be due and payable to the mortgagee by the Association immediately. The repayment of said obligation shall be secured by an assessment against all Unit Owners and shall not require a vote of the Members, anything to the contrary in this Declaration notwithstanding.

**17.08**        **Sufficient Insurance.** In the event the improvements forming a part of the Condominium Property or any portion thereof shall suffer damage or destruction from any cause or peril insured against and the proceeds of any policy or policies insuring against such loss or damage and payable by reason thereof shall be sufficient to pay the cost of repair or restoration or reconstruction, then such repair, restoration or reconstruction shall be undertaken by the Association and the insurance proceeds shall

be applied by the Association in payment therefore; provided however, that in the event, within thirty (30) days after such damage or destruction, the Unit Owners, if they are entitled to do so pursuant to the provisions of the Declaration, shall elect to sell the Condominium Property or to withdraw the same from the provisions of this Declaration, then such repair, restoration or reconstruction shall not be undertaken.

**17.09**        **Insufficient Insurance.** In the event the improvements forming a part of the Condominium Property or any portion thereof shall suffer damage or destruction from any cause or peril which is not insured against, or if insured against the insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration or reconstruction thereof, unless the Unit Owners shall within ninety (90) days after such damage or destruction, if they are entitled to do so pursuant to the provisions of the Declaration, elect to withdraw the property from the provisions of this Declaration, such repair, restoration or reconstruction of the Units so damaged or destroyed shall be undertaken by the Association at the expense of all the Unit Owners in the same proportions in which they shall own the Common Elements. Should any Unit Owner refuse or fail, after reasonable notice, to pay his share of such cost in excess of available insurance proceeds, the excess shall be assessed to such Unit Owner and such assessments shall have the same force and effect, and if not paid, may be enforced in the same manner as hereinbefore provided for the non-payment of assessments.

**17.10**        **Procedure for Reconstruction or Repair.** Immediately after a casualty causing damage to any portion of the Condominium Property the Association 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 deems necessary.

**17.11**        **Construction Funds.** The insurance proceeds and the sums received by the Association from the collection of assessments against Unit Owners on account of such casualty shall be considered a special construction fund to be disbursed by the Association to the payment of the cost of reconstruction and repair of the Condominium Property from time to time as the work progresses. It shall be presumed that the first monies disbursed in payment of such costs of reconstruction and repair shall be from insurance funds.

**17.12**        **Adjustment.** Each Unit Owner shall be deemed to have delegated to the Board his right to adjust with insurance companies all losses under the insurance policies referred to in the Declaration.

**17.13**        **Non-Restoration of Damage or Destruction.** In the event of substantial damage to or destruction of two-thirds (2/3) or more of the Units, the Unit Owners, by the affirmative vote of those entitled to exercise not less than seventy-five percent (75%) of the voting power, may elect not to repair or restore such damage or

destruction; provided the consent of the holders, insurers or guarantors of first mortgages on over fifty-one percent (51%) of the Units has been first obtained. Upon such election, all of the Condominium Property shall be subject to an action for sale as upon partition by any Unit Owner. In the event of any such sale or a sale of the Condominium Property after such election by agreement of all Unit Owners, the net proceeds of the sale, together with the net proceeds of insurance, if any, and any other indemnity arising because of such damage or destruction, shall be considered as one fund and shall be distributed to all Unit Owners in proportion to their respective Percentage of Ownership. No Unit Owner shall receive any portion of his share of such proceeds until all liens and encumbrances on his Unit have been paid, released or discharged.

**17.14**        **Deductible.** Any amounts paid by the Association on the account of any insurance claim shall be a Special Individual Unit Assessment against the Unit for which such claim was presented.

## **ARTICLE XVIII** **LIABILITY AND OTHER INSURANCE**

**18.01**        **Liability Insurance.** As a Common Expense, the Association shall insure itself, the Board, all Unit Owners and members of their respective families and other persons residing with them in the Condominium Property, their tenants and all persons lawfully in the possession or control of any part of the Condominium Property, against liability for bodily injury, disease, illness or death and for injury to or destruction of property occurring upon, in or about, or arising from destruction of property occurring upon, in or about, or arising from the Common Elements; such insurance to afford protection to a limit of not less than Two Million Dollars (\$2,000,000.00) in respect to bodily injury, disease, illness or death suffered by any one person, and to the limit of not less than Two Million Dollars (\$2,000,000.00) in respect to any one occurrence, and to the limit of not less than Five Hundred Thousand Dollars (\$500,000.00) in respect to damage to or destruction of property arising out of any one accident.

**18.02**        **Prohibition.** Such policy shall not insure against liability for personal injury or property damage arising out of or relating to the individual Units or Limited Common Elements appertaining thereto.

**18.03**        **Insufficient Liability Insurance.** In the event that the proceeds of any liability policy are insufficient, any deficit shall be charged to all Unit Owners as a Special Individual Unit Assessment.

**18.04**        **Other Insurance.** The Association shall also obtain such additional insurance as the Board considers necessary, including without limitation, fidelity bonds for anyone who either handles or is responsible for funds held or administered by the Association and insurance on the Managing Agent.

**18.05**      **Amount of Fidelity Coverage.** The amount of such fidelity bond shall be equal to, at a minimum, the maximum funds that will be in the custody of the Association at any time such bond is in effect. In addition, such fidelity bond coverage must equal the sum of three (3) months Common Assessments, together with the reserve funds, if any.

**18.06**      **Notice of Cancellation or Substantial Changes.** Any insurance coverage obtained by the Association shall contain a provision requiring the insurer to notify the Association and any mortgagee named in the mortgage clause, if applicable, in writing of the cancellation or a substantial change of coverage at least thirty (30) days prior to such cancellation or substantial change.

**18.07**      **Annual Review.** The amounts and coverage of each insurance policy obtained by the Association shall be reviewed annually by the Board.

## **ARTICLE XIX**

### **REHABILITATION AND RENEWAL OF OBSOLETE PROPERTY**

**19.01**      **General.** The Association may, by the affirmative vote of Unit Owners entitled to exercise not less than seventy-five percent (75%) of the voting power, determine that the Condominium Property is obsolete in whole or in part and elect to have the same renewed and rehabilitated. The Board shall thereupon proceed with such renewal and rehabilitation and the cost thereof shall be a Common Expense. Any Unit Owner who does not vote for such renewal and rehabilitation may elect, in a writing served by him on the President of the Association within five (5) days after receiving notice of such vote, to receive the fair market value of his Unit, less the amount of any liens and encumbrances thereon as of the date such vote is taken, in return for a conveyance of his Unit, subject to such liens and encumbrances, to the President of the Association as trustee for all other Unit Owners. In the event of such election, such conveyance and payment of the consideration therefore, which shall be a Common Expense to the Unit Owners who have not so elected, shall be made within ten (10) days thereafter, and if such Unit Owner and a majority of the Board cannot agree upon the fair market value of such Unit, such determination shall be made by the majority vote of three (3) appraisers, one of which shall be appointed by such Unit Owner, one of which shall be appointed by the Board and the third of which shall be appointed by the first two appraisers.

## **ARTICLE XX**

### **REMEDIES FOR BREACH OF COVENANTS AND RESTRICTIONS**

**20.01**      **Abatement and Enjoyment.** The violation of any restriction or condition or regulation adopted by the Board, or the breach of any covenant or provision contained in the Condominium Organizational Documents shall give the Board the right, in addition to the rights hereinafter set forth in this section: (a) to enter upon the land or

Unit portion thereof upon which, or as to which such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions of the Condominium Organizational Documents and the Board, or its Managing Agent, shall not be thereby deemed guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

**20.02      Procedures for Enforcement of Violations.**

(a) Notice. Prior to imposing charges for damages to the Common Elements or other property, or assessments for the enforcement of violations of the provisions of the Condominium Organizational Documents, the Board shall give the Unit Owner of the Unit written notice containing:

- (i) A description of the property damages or the violation;
- (ii) The amount of the proposed charge or assessment;
- (iii) A statement that the owner has a right to a hearing before the Board to contest the proposed charge or assessment;
- (iv) A statement setting forth the procedures to request a hearing pursuant to the following Subsection of this Article; and
- (v) A reasonable date by which the Unit Owner must cure the violation to avoid the proposed charge or assessment.

(b) Hearing. A Unit Owner may request a hearing by delivering written notice of such request no later than the tenth day after receiving the notice provided in the preceding Subsection of this Article. If the Unit Owner fails to make a timely request for a hearing, the right to such hearing shall be considered waived, and the Board may immediately impose the charge for damages or enforcement assessment referenced in the notice provided in the preceding Subsection of this Article, or may allow a reasonable time to cure the violation before imposing a charge or assessment. If a Unit Owner requests a hearing, the Board shall not levy the charge or assessment before holding a hearing, and will, at least seven (7) days prior to the hearing, provide the Unit Owner with a written notice of the date, time and location of the hearing. Within thirty (30) days following a hearing at which the Board imposes a charge or assessment, the Board shall deliver a written notice of the charge or assessment to the Unit Owner.

(c) **Manner of Notice.** Any notice required under this Section to be served:

(i) Upon the Unit Owner, shall be delivered personally to the Unit Owner or Occupant at the Unit, or mailed, by certified mail, return receipt requested, to the Unit Owners at the address of the Unit, provided that if the Unit Owners have provided the Association with an alternate address, all such notices shall be mailed (by certified mail, return receipt requested) to the Unit Owner at such alternative address;

(ii) Upon the Association, shall be delivered personally to any officer of the Association or to any on-site representative of any professional management company hired by the Association; or mailed, by certified mail, return receipt requested, to any officer of the Association or to the Managing Agent.

**20.03 Civil Action.** Declarant, Developer, Agent, Unit Owner or Occupant are liable in a civil action for damages caused to any person by his failure to comply with any lawful provision of the Condominium Organizational Documents. Any interested person may commence an action for a declaratory judgment to determine his legal relations under the Condominium Organizational Documents or to obtain an injunction against an Agent, Unit Owner, or person entitled to occupy a Unit who refuses to comply, or threatens to refuse to comply, with any provision of the instruments. One (1) or more Unit Owners may bring a class action on behalf of all Unit Owners. The lawful provisions of the Condominium Organizational Documents may, if necessary to carry out their purposes, be enforced against the Condominium Property or any person who owns or has previously owned any interest in the Condominium Property.

**20.04 Eviction Proceedings.** The Association, as agent for a Unit Owner, shall have the right to initiate eviction proceedings pursuant to Chapter 5321 and 1923 of the Ohio Revised Code, against the tenant of a Unit Owner who is in violation of the Condominium Organizational Documents. Ten (10) days prior written notice shall be provided to the Unit Owner of such intended action. The costs thereof, including reasonable attorney fees, shall be chargeable to such Unit Owner as a Special Individual Unit Assessment against the Unit.

**20.05 Proper Party.** An action by the Association under this article may be commenced by the Association in its own name or in the name of its Board or in the name of its Managing Agent.

## **ARTICLE XXI**

### **ASSESSMENTS AND LIEN OF ASSOCIATION**

**21.01 General.** Assessments for the maintenance, repair and insurance of the Common Elements and for the insurance of the Units, together with the payment of the Common Expenses, shall be made in the manner provided herein and in the manner

provided in the By-Laws. Such assessments are the personal obligation of a Unit Owner together with any costs and/or expenses, including reasonable attorney's fees incurred by the Association in any foreclosure or collection action or any other actions to enforce the provisions thereof.

**21.02**        **Non-Use of Facilities.** No Unit 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 Elements or by the abandonment of his Unit.

**21.03**        **Non-Payment of Assessment; Remedies of the Association.** If any assessment, or any installment or portion of any assessment is not paid within ten (10) days after the same has become due, the entire unpaid balance shall immediately, without notice or demand, become due and payable, and the Board, at its option, without notice or demand, may charge additional amounts for:

(a) Reasonable, uniform administrative late fees as determined by the Board from time to time;

(b) Enforcement charges and collection costs (including, without limitation, attorney and paralegal fees) the Association incurs or estimates that it will incur in connection with the collection of the delinquency;

(c) Interest on the entire unpaid balance of assessments and costs incurred by the Association in connection with such collection, at the rate of eight percent (8%) per annum or at such other rate as the Board may, from time to time, determine; and

(d) Any other charges authorized by the Condominium Organizational Documents.

**21.04**        **Application of Payments.** Payments made by a Unit Owner for assessments shall be applied:

(a) First, for the payment of interest accrued on the delinquent installments or portions of unpaid assessments and on costs incurred by the Association in connection with such collection, at the rate of eight percent (8%) per annum or at such other rate as the Board may, from time to time, have otherwise determined;

(b) Second, for the payment of administrative late fees charges with respect to the delinquency applicable to the Unit;

(c) Third, to reimburse the Association for enforcement charges and collection costs, including, without limitation, attorney and paralegal fees incurred by the Association in connection with the delinquency; and

(d) Fourth, to the payment of delinquent installments or portions of assessments which remain unpaid.

**21.05 Lien of Association.** The Association shall have a lien upon the estate or interest in any Unit and its Percentage of Ownership in the Common Elements for the payment of any delinquent assessments chargeable against such Unit. At any time after such delinquency a certificate of lien for all or any part of the unpaid assessments, including late charges, interest and if monthly assessments are delinquent, then the remaining unpaid monthly assessments under the then current budget may be Recorded pursuant to authorization given by the Board. The certificate shall contain a description of the Unit against which the lien exists, the name or names of the record Unit Owner(s) thereof, the amount of the delinquency and shall be signed by the President of the Association.

**21.06 Term and Validity of Lien.** The lien provided for in the preceding Section shall remain valid for a period of five (5) years from the date of filing, unless sooner released or satisfied, in the same manner provided by law in the State of Ohio for the release and satisfaction of mortgages or real property, or discharged by the final judgment or order of a court in an action brought to discharge the line.

**21.07 Priority of Association's Lien.** The lien provided for in the preceding Section is prior to any lien or encumbrance subsequently arising or created except liens for real estate taxes and assessments and liens of bona fide first mortgages that have been filed for record, and may be foreclosed in the same manner as a mortgage on real property in an action brought on behalf of the Association by its President, pursuant to authority given to him by the Board. In the foreclosure action the Unit Owner shall be required to pay a reasonable rental for the Unit during the pendency of the action, and the plaintiff in the action is entitled to the appointment of a receiver to collect the rent. In the foreclosure action the Association, duly authorized by action of its Board, is entitled to become a purchaser at the foreclosure sale.

**21.08 Special Individual Unit Assessment.** Notwithstanding anything to the contrary herein, if the Association shall incur any cost or expense, including without limitation filing fees and/or attorney fees, for or on account of any item of maintenance, repair or other matter directly or indirectly occasioned or made necessary by any wrongful or negligent act or omission or failure to pay assessments or comply with the provisions of the Declaration or Rules and Regulations of and by any Unit Owner or his

invitees or lessees, such cost of expense shall be borne by such Unit Owner and not by the Association, and if paid by the Association shall be paid or reimbursed to the Association by such Unit Owner as a Special Individual Unit Assessment forthwith upon the Association's demand.

**21.09**        **Dispute as to Common Expenses.** Any Unit Owner who believes that the portion of Common Expenses chargeable to his unit for which a certificate of lien has been filed by the Association has been improperly charged against him or his Unit may commence an action for the discharge of such lien in the Common Pleas Court of Montgomery County, Ohio.

**21.10**        **Non-Liability of Mortgagee for Past Due Common Expenses.** When the mortgagee of a first mortgage of record acquires title to the unit as a result of the remedies provided in such mortgage or a foreclosure of the first mortgage, such mortgagee, its successors and assigns shall not be liable for the share of Common Expenses or other assessments by the Association chargeable to such Unit which became due prior to the acquisition of title to such Unit by such mortgagee. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from all of the Units, including that of such mortgagee, its successors or assigns.

**21.11**        **Liability for Assessments upon Voluntary Conveyance.** In a voluntary conveyance of a Unit the grantee of the Unit shall be jointly and severally liable with the grantor for all unpaid assessments by the Association against the grantor and his Unit for his share of Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore. Such grantee hereby expressly assumes and agrees to pay such assessments. However, upon request any such grantee and his mortgagee shall be entitled to a statement from the Board setting forth the amount of all unpaid and current assessments against the grantor due the Association, and such grantee shall not be liable for nor shall the Unit conveyed be subject to a lien for any unpaid assessments made by the Association against the grantor in excess of the amount set forth in such statement for the period reflected in such statement.

**21.12**        **Legal Actions.** In addition to the lien permitted by this Article, the Association, as authorized by the Board, may bring an action at law against the owner or owners personally obligated to pay the same, an action to foreclose a lien, or any other action permitted by law. In any foreclosure action, the Unit Owner or Owners affected shall be required to pay a reasonable rental for that Unit during the pendency of such action, and the Association shall be entitled to the appointment of a receiver to collect rental. Rental collected by a receiver during the pendency of a foreclosure action shall be applied first to the payment of the portion of the Common Expenses chargeable to the Unit during the pendency of the foreclosure action. The Association shall be entitled to become a purchaser at any foreclosure sale.

**ARTICLE XXII**  
**EMINENT DOMAIN**

**22.01**        **General.** If all or any part of the Condominium Property is taken, injured or destroyed by the exercise of the power of eminent domain, each affected Unit Owner and mortgagee shall be entitled to notice of the taking and to participate in the proceedings.

**22.02**        **Common Elements.** To the extent that an eminent domain taking affects the Common Elements, the Association shall represent the Unit Owners in such condemnation or in negotiations, settlements and agreements with the condemning authority for any acquisition of any part or all of the Common Elements, and each Unit Owner shall be deemed to have appointed the Association as his attorney-in-fact for such purpose.

**22.03**        **Damages.** Any damages for the taking, injury or destruction of the Common Elements shall be considered as a whole and shall be collected by the Association and distributed among the Unit Owners and among any mortgagees as their interests may appear in proportion to their Percentage of Ownership.

**22.04**        **Reallocation.** Any reallocation of the Percentage of Ownership after a partial taking shall be effected by an Amendment which shall require the approval of all Unit Owners affected by such reallocation and their mortgagees.

**ARTICLE XXIII**  
**MISCELLANEOUS PROVISIONS**

**23.01**        **Grantees and Incorporation Into Deeds.** Each grantee of a Unit, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges and the jurisdiction, rights and powers created or reserved by this Declaration and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in said land, and shall inure to the benefit of such Unit Owner in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

**23.02**        **Removal.** Upon the removal of the Condominium Property from the provisions of the Ohio Condominium Act, all easements, covenants and other rights, benefits, privileges, impositions and obligations declared herein to run with the land or any Unit shall terminate and be of no further force and effect.

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

**23.04**      **Invalidity.** The invalidity of any covenant, restriction, condition, limitation or any other provision of this Declaration or of any part of the same shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration.

**23.05**      **Additional Notice Provisions.** In addition to any notice provision set forth in this Declaration or the By-Laws, the holder, insurer or guarantor of a first mortgage on any Unit, upon written request to the Board, shall be provided with copies of the following related to the Unit secured by such first mortgage or to the Condominium in general:

(a) A copy of any and all notices and other documents permitted or required by the Declaration or the By-Laws to be given to the Unit Owner.

(b) A copy of any lien filed by the Association against a Unit.

(c) Any proposed Amendment affecting a change in the boundaries of the Unit or in its exclusive easement rights appertaining thereto; in the interests of a Unit to the Common Element or its liability for the Common Expenses; the voting rights of a Unit or Unit Owner; or to the purposes to which any Unit or the Common Elements are restricted.

(d) Any proposed termination of the Condominium.

(e) Any condemnation loss or any casualty loss affecting a material portion of the Condominium or affecting a Unit.

(f) Any delinquency in the payment of assessments exceeding sixty (60) days for a Unit.

(g) Any lapse, cancellation or material modification of insurance coverage.

**23.06**      **Prior Written Approval.** Notwithstanding any provision in the Declaration or By-Laws, the following actions by either the unit Owners or the Association shall require the prior written consent of the holders, insurers or guarantors of first mortgages on over fifty-one percent (51%) of the Units who have requested the forwarding of notices pursuant to the preceding Section:

(a) Any election to terminate the Condominium after substantial destruction or a substantial taking in condemnation of the Condominium Property.

(b) Any reallocation of the Percentage of Ownership resulting from a partial condemnation or partial destruction of the Condominium.

(c) Any change or modification to the requirement that after a partial condemnation or damage due to an insurance hazard that the Condominium Property be restored to the condition set forth in the Declaration.

**23.07 Availability of Condominium Organizational Documents and Financial Statements.** Upon request and at reasonable charge, the Association shall make available to any Unit Owner, lenders, first mortgage holders and prospective purchasers copies of the Condominium Organizational Documents and the most recent audited financial statements of the Association if the latter has been prepared.

**23.08 Headings.** The heading of each Article and to each Section hereof is inserted only as a matter of convenience and for reference, and in no way defines, limits or describes the scope or intent of this Declaration nor in any way affects this Declaration.

**23.09 Liberal Construction.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the establishment and operation of a first class Condominium Development.

**23.10 References.** Unless otherwise specified, all references to a particular Article or Section shall refer to such Article or Section of the Declaration.

**23.11 Gender and Grammar.** Any necessary grammatical changes required to make the provisions hereof apply either to corporations, limited liability companies, trusts, partnerships or individuals, male or female, shall in all cases be assumed as through in each case fully expressed herein.

**23.12 Full Compliance.** The Condominium has been created and is existing in full compliance with the requirements of the Ohio Condominium Act and all other applicable laws.

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**EXECUTED** by the Board pursuant to the consent and authorization of the Consenting Owners on the date(s) set forth in the acknowledgement of the signatures below.

**WYTHE PARISH HOMEOWNERS ASSOCIATION, INC.**

By: Sue Ellen Fox

By: Mary Wagner

By: Robert C. Wingston

**STATE OF OHIO, COUNTY OF MONTGOMERY, SS:**

The foregoing instrument was acknowledged before me this 11 day of FEBRUARY, 2010 by SUE ELLEN FOX, Member of the Board of Directors of Wythe Parish Homeowners Association, Inc., an Ohio not-for-profit corporation, on behalf of such corporation.



CYNTHIA L. LARKINS, Notary Public  
In and for the State of Ohio  
My Commission Expires Nov. 27, 2011

Cynthia L. Larkins  
Notary Public

**STATE OF OHIO, COUNTY OF MONTGOMERY, SS:**

The foregoing instrument was acknowledged before me this 11 day of FEBRUARY, 2010 by MARY WAGNER, Member of the Board of Directors of Wythe Parish Homeowners Association, Inc., an Ohio not-for-profit corporation, on behalf of such corporation.



CYNTHIA L. LARKINS, Notary Public  
In and for the State of Ohio  
My Commission Expires Nov. 27, 2011

Cynthia L. Larkins  
Notary Public

**STATE OF OHIO, COUNTY OF MONTGOMERY, SS:**

The foregoing instrument was acknowledged before me this 11 day of FEBRUARY, 2010 by ROBERT C. WINSLOW, Member of the Board of Directors of Wythe Parish Homeowners Association, Inc., an Ohio not-for-profit corporation, on behalf of such corporation.



CYNTHIA L. LARKINS, Notary Public  
In and for the State of Ohio  
My Commission Expires Nov. 27, 2011

*Cynthia L. Larkins*  
Notary Public

**THIS INSTRUMENT PREPARED BY:**

**HANS H. SOLTAU**  
Attorney at Law  
6776 Loop Road  
Centerville, Ohio 45459

**EXHIBIT "A"**

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**WYTHE PARISH CONDOMINIUM ASSOCIATION, INC.**

**CONDOMINIUM ASSOCIATION BY-LAWS**

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**BY-LAWS**  
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## **CONDOMINIUM ASSOCIATION BY-LAWS**

The within By-Laws are executed and attached to the Declaration of Condominium pursuant to the Ohio Condominium Act. Their purpose is to provide for the establishment of a Unit Owner's Association for the administration of the Condominium Property in the manner provided by the Declaration and by these By-Laws. All present or future owners or tenants or their employees, and any other person who might use the facilities of the Condominium Property in any manner shall be subject to any restrictions, conditions or regulations hereafter adopted by the Board. The terms used herein shall have the same meaning as defined in the Declaration.

### **ARTICLE I** **THE ASSOCIATION**

**1.01**        **Name of Association.** The Association shall be an Ohio corporation, not-for-profit, and shall be called **WYTHE PARISH HOMEOWNERS ASSOCIATION, INC.**

**1.02**        **Membership and Voting Rights.** Membership requirements and the voting rights of its Members are set forth in the Declaration.

**1.03**        **Proxies.** Votes may be cast in person or by proxy. The person appointed as proxy need not be a Unit Owner. Proxies must be in writing and filed with the Secretary of the Association before the appointed time of each meeting or action taken. Unless otherwise provided, all proxies shall be revocable at any time by delivering written notice of such revocation to the Secretary of the Association. If, by the terms of a first mortgage a Unit Owner has designated such mortgagee as his proxy, the presentation to the Secretary of the Association by a representative of such mortgagee of a copy of the mortgage containing such proxy designation shall constitute notice of such proxy designation and if the mortgage so states, notice of the irrevocability of such designation.

**1.04**        **Place of Meetings.** Meetings of the Association shall be held at such place upon the Condominium Property or at such other place as may be designated by the Board and specified in the notice of the meeting at such other time as may be designated by the Board and specified in the notice of the meeting.

**1.05**        **Regular Meetings.** There shall be one regular meeting of the Members each year on such date and time as specified by the Board. The meeting shall be for the purpose of electing the Board and such other business as may be set forth in its notice.

**1.06**        **Special Meetings.** It shall be the duty of the President of the Association to call a special meeting of the Unit Owners as directed by resolution of the Board or

upon a petition signed by a majority of the Unit Owners and having been presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of four-fifths (4/5) of the Unit Owners present, either in person or by proxy.

**1.07**        **Notice of Meetings.** It shall be the duty of the Secretary of the Association to mail a notice of each regular or special meeting, stating the purpose thereof, as well as the time and place where it is to be held, to each Unit Owner of record, at least fourteen (14) days but not more than twenty-eight (28) days prior to such meeting. The Unit Owners of record will be determined as of the day preceding the day on which notice is given.

**1.08**        **Waiver of Notice.** Notice of the time, place and purpose of any meeting of Members may be waived in writing, either before or at the commencement of such meeting by any Members which writing shall be filed with or entered upon the records of the meeting. The attendance of any Members at any such meeting without protesting prior to or at the commencement of the meeting the lack of proper notice, shall be deemed to be a waiver by him of notice of such meeting.

**1.09**        **Action by Unanimous Written Consent of the Unit Owners.** Any action which may be authorized or taken at a meeting of the Unit Owners may be authorized or taken without a meeting in a writing or writings signed by all of the Unit Owners. The writing or writings evidencing such action taken by the unanimous written consent of the Unit Owners shall be filed with the records of the Association. Written notice of any action proposed to be taken by the unanimous written consent of the Unit Owners shall be sent to all persons entitled to notice under these By-Laws at least five (5) days prior to the circulation of the action for unanimous written consent among the Unit Owners and shall specify the action proposed to be so taken.

**1.10**        **Order of Business.** The order of business at all regular meetings of the Unit Owners shall be as follows:

- (a) Roll call
- (b) Proof of notice of meeting or waiver of notice
- (c) Reading of minutes of preceding meeting
- (d) Reports of officers
- (e) Report of committees
- (f) Election of directors
- (g) Approval of budget (if a January meeting)
- (h) Unfinished business
- (i) New business
- (j) Adjournment

**ARTICLE II**  
**GENERAL POWERS OF THE ASSOCIATION**

**2.01**        **General.** The Association shall have the following authority and power:

(a) Hire and fire managing agents, attorneys, accountants and other independent contractors and employees that the board determines are necessary or desirable in the management of the Condominium Property and the Association;

(b) Commence, defend, intervene in, settle or compromise any civil, criminal or administrative action or proceeding that is in the name of, or threatened against, the Association, the Board, or the Condominium Property, or that involves two (2) or more Unit Owners and relates to matters affecting the Condominium Property;

(c) Enter into contracts and incur liabilities relating to the operation of the Condominium Property;

(d) Regulate the use, maintenance, repair, replacement, modification, and appearance of the Condominium Property;

(e) Adopt Rules and Regulations that regulate the use or occupancy of Units, the maintenance, repair, replacement, modification and appearance of the Units, Common Elements and Limited Common Elements when the actions regulated by those rules affect Common Elements or other Units;

(f) Cause additional improvements to be made as part of the Common Elements;

(g) Acquire, encumber and convey or otherwise transfer personal property;

(h) Hold in the name of the Association the personal property acquired pursuant to subsection (g) of this section;

(i) Grant easements, leases, licenses and concessions through or over the Common Elements;

(j) Impose and collect fees or other charges for the use, rental or operation of the Common Elements or for services provided to Unit Owners;

(k) Impose interest and late charges for the late payment of assessments and impose returned check charges;

(l) Promulgate and, pursuant to the provisions of the Condominium Organizational Documents, impose reasonable enforcement assessments for violations of the Condominium Organizational Documents and Rules and Regulations, and reasonable charges for damage to the Common Elements or other property;

(m) Adopt and amend rules that regulate the collection of delinquent assessments and the application of payments of delinquent assessments;

(n) Impose reasonable charges for preparing, recording or copying Amendments, resale certificates or statements of unpaid assessments;

(o) Enter into a Unit for bona fide purposes when conditions exist that involve an imminent risk of damage or harm to Common Elements, another Unit, or to the health or safety of the occupants of that Unit or another Unit;

(p) To borrow funds, as needed, and pledge such security and rights of the Association as may be necessary or desirable to obtain any such loan including, without limitation, the pledge or assignment of the Association's right to future income and the Association's right to levy assessments upon the Members;

(q) Purchase insurance and fidelity bonds required by the Underwriters, or such other insurance and fidelity bonds as the directors consider appropriate or necessary;

(r) Invest excess funds in investments that meet standards for fiduciary investments under Ohio law;

(s) Exercise powers that are:

(1) Conferred by the Condominium Organizational Documents, or Ohio law;

(2) Necessary to incorporate or reincorporate the Association as an Ohio not-for-profit corporation;

(3) Permitted to be exercised in Ohio by a not-for-profit corporation;

(4) Necessary and proper for the government and operation of the Association.

**ARTICLE III**  
**BOARD OF DIRECTORS**

**3.01**        **Number and Qualification.** The officers of the Association shall be governed by a Board composed of three (3) Persons, as determined at the annual meeting of the Members. A member of the Board shall be a Unit Owner or an occupant of a Unit related to a Unit Owner by a marital or fiduciary relationship.

**3.02**        **Election of Directors.** The required directors shall be elected at each annual meeting of the Members. Only persons nominated as candidates shall be eligible for election as directors and the candidates receiving the greatest number of votes shall be elected. Each Member may vote for as many candidates as there are vacancies in the Board due to the expiration of their terms.

**3.03**        **Vacancies During the Term.** In the event of the occurrence of any vacancy or vacancies on the Board during the term of such director or directors, the remaining directors, though less than a majority of the whole authorized number of directors, may, by the vote of a majority of their number, fill any such vacancy for the unexpired term.

**3.04**        **Term of Office: Resignation.** Each director shall hold office until his term expires or until his earlier resignation, removal from office or death. Any director may resign at any time by oral statement to that effect made at a meeting of the Board or in a writing to that effect delivered to the Secretary of the Association; such resignation to take effect immediately or at such other time as the director may specify. The term of office of each director shall be two (2) years unless otherwise provided by the Members at their December regular meeting.

**3.05**        **Removal of Directors.** At any regular or special meeting duly called, any one (1) or more of the directors may be removed with or without cause by the vote of Members entitled to exercise at least seventy-five percent (75%) of the voting power of the Association. Any director whose removal has been proposed by the Members shall be given an opportunity to be heard at such meeting. In the event that a director is removed by vote, his successor shall then and there be elected to fill the vacancy thus created.

**3.06**        **Organization Meeting.** Immediately after the annual meeting of the Members the newly elected director and those directors whose terms hold over shall hold an organization meeting for the purpose of electing officers and transacting any other business. Notice of such meeting need not be given.

**3.07**        **Regular Meetings.** Regular meetings of the Board may be held at such time and place as shall be determined by a majority of the directors, but at least four (4) such meetings shall be held during each year.

**3.08**        **Special Meetings.** Special Meetings of the Board may be held at any time upon call by the President or any two (2) directors. Written notice of the time and place of each such meeting shall be given to each director either by personal delivery, mail, telegram or telephone, at least two (2) days before the meeting, which notice shall specify the purpose of the meeting; provided, however that attendance of any director at any such meeting without protesting prior to or at the commencement of the meeting the lack of proper notice, shall be deemed to be a waiver by him of notice of such meeting and such notice may be waived in writing either before or at the commencement of such meeting. If all the directors are present at any meeting of the board, no notice shall be required and any business may be transacted at such meeting.

**3.09**        **Electronic Communication.** Meetings of the Board may be held by any method of communication, including electronic or telephonic communication; provided that each Director can hear, participate and respond to every other member.

**3.10**        **Board of Directors' Quorum.** At all meetings of the Board a majority of the directors shall constitute a quorum for the transaction of business and the acts of the majority of the directors present at a meeting at which a quorum is present shall be the acts of the Board. If at any meeting of the Board there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At the continuation of any such adjourned meeting any business which might have been transacted at the meeting as originally called may be transacted without further notice.

**3.11**        **Action by Unanimous Written Consent of the Board.** Any action which may be authorized to be taken at a meeting of the Board may be taken or authorized without a meeting in a writing or writings signed by all of the members of the Board. The writing or writings evidencing such action taken by the unanimous written consent of the Board shall be filed with the records of the Association.

**3.12**        **Fidelity Bonds.** The Board shall require that all directors, officers and employees of the Association and any Managing Agent handling or responsible for the Association funds shall furnish adequate fidelity bonds. The premiums for such bonds shall be paid by the Association. In addition, any Managing Agent shall provide, at its expense, insurance for any of its employees responsible for handling or maintenance of Association funds.

**ARTICLE IV**  
**POWERS OF THE BOARD**

**4.01**      **General.** The Board shall exercise all powers and authority, under law, and under the provisions of the Condominium Organizational Documents, that are not specifically and exclusively reserved to the Unit Owners by law or by other provisions thereof, and without limiting the generality of the foregoing, the Board shall have the right, power and authority to:

- (a) take all actions deemed necessary or desirable to comply with all requirements of law, and the Condominium Organizational Documents;
- (b) obtain insurance coverage no less than that required pursuant to the Declaration;
- (c) enforce the covenants, conditions and restrictions set forth in the Declaration;
- (d) repair, maintain and improve the Common Elements;
- (e) establish, enforce, levy and collect assessments as provided in the Declaration;
- (f) adopt and publish Rules and Regulations:
  - (i) governing the use of the Common Elements and the personal conduct of Unit Owners, Occupants and their guests thereon;
  - (ii) detailing the procedures for discharging the Association's responsibilities with regard to the administration of the Condominium Property;
  - (iii) governing any aspect of the Condominium Property that is not required by statute to be governed by the Condominium Organizational Documents; and
  - (iv) establishing penalties for the infraction thereof;
- (g) suspend the voting rights of a Unit Owner during any period in which such Unit Owner shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for each infraction of published Rules and Regulations or of any provisions of the Condominium Organizational Documents;

(h) declare the office of a member of the Board to be vacant in the event such Director shall be absent from three (3) consecutive regular meetings of the Board;

(i) authorize the officers to enter into one or more agreements necessary or desirable to fulfill the purposes and objectives of the Association and to facilitate the efficient operation of the property. It shall be the primary purpose of such management agreements to provide for administration, management, repair and maintenance as provided in the Declaration, and the receipt and disbursement of funds as may be authorized by the Board. The terms of any management agreements shall be as determined by the Board to be in the best interest of the Association, subject, in all respects, to the provisions of the Condominium Organizational Documents;

(j) cause funds of the Association to be invested in such reasonable investments as the Board may, from time to time, determine;

(k) borrow funds, as needed, and pledge such security and rights of the Association as might be necessary or desirable to obtain any such loan including, without limitation, the pledge of the Association's right to levy assessments upon the members; and

(l) do all things and take all actions permitted to be taken by the Association by law, or the Condominium Organizational Documents not specifically reserved thereby to others.

## **ARTICLE V** **DUTIES OF THE BOARD**

**5.01**        **General.** It shall be the duty of the Board to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Unit Owners at each annual meeting of Unit Owners, or at any special meeting when such statement is requested in writing by Unit Owners representing a Majority of the Unit Owners;

(b) supervise all officers, agents and employees of the Association and see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(i) fix the amount of assessments against each Unit;

(ii) give written notice of each assessment to every Unit Owner subject thereto within the time limits set forth therein; and

(iii) foreclose the lien against any property for which assessments are not paid within a reasonable time after they are authorized by the Declaration to do so, or bring an action at law against the Unit Owner(s) personally obligated to pay the same, or both;

(d) issue, or to cause an appropriate representative to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid;

(e) procure and maintain insurance and bonds as provided in the Declaration, and as the Board deems advisable;

(f) cause the property subject to the Association's jurisdiction to be maintained within the scope of authority provided in the Declaration;

(g) cause the restrictions created by the Declaration to be enforced;  
and

(h) take all other actions required to comply with all requirements of law and the Condominium Organizational Documents.

## **ARTICLE VI** **OFFICERS**

**6.01**        **Designation.** The principal officers of the Association shall be a President, Secretary and a Treasurer, all of whom shall be elected by and from the Board.

**6.02**        **Term of Office: Vacancies.** The officers of the Association shall hold office until the next organization meeting of the Board and until their successors are elected, except in case of resignation, removal from office or death.

**6.03**        **President.** The President shall be the chief executive officer of the Association. He/she shall preside at all meetings of the Association and of the Board. Subject to directions of the Board, the President shall have general executive supervision over the business and affairs of the Association. He/she may execute all contracts and other obligations of the Association and shall have such other authority and shall perform such other duties as may be determined by the Board or otherwise provided for in the Declaration or in these By-Laws.

**6.04**        **Secretary.** The Secretary shall keep the minutes of all meetings of the Board and the minutes of all meetings of the Association. He/she shall have charge of such books and papers as the Board may direct. He/she shall be in charge of sending any notices and he shall, in general, perform all the duties incident to the office of Secretary.

**6.05**        **Treasurer.** The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He/she shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may, from time to time, be designated by the Board, or as designated to a professional accounting firm.

**6.06**        **Multiple Offices.** An officer can be elected to more than one (1) office.

**6.07**        **Delegation.** The Board may from time to time delegate or assign the specific duties of a particular office to another office.

## **ARTICLE VII BOOKS**

**7.01**        **General.** The Association shall maintain correct and complete books, records and financial statements of the Association, including, without limitation, the Condominium Organizational Documents; current Rules and Regulations; names and addresses of the Unit Owners and their respective Percentage of Ownership; actions and Board resolutions, minutes of all meetings of Members and the Board, documents relating to its financial condition, all receipts and expenditures, budget, financial statements showing the allocation, distribution and collection of the Common Profits, Common Losses and Common Expenses among and from the Unit Owners and annual audited financial statements when such are prepared.

**7.02**        **Availability.** Any Unit Owner, duly authorized agent of any Unit Owner, duly authorized prospective purchaser, Eligible Holder, insurer or guarantor of a first mortgage on a Unit, may examine and copy any of the foregoing books, records and financial statements pursuant to reasonable standards established in the Condominium Organizational Documents or by Rules and Regulations which may include, without limitation, standards governing the type of documents that are subject to examination and copying, the times and locations at which those documents may be examined or copied, and the specification of a reasonable fee for copying the documents.

**7.03**        **Limitations.** Notwithstanding the foregoing section, the Association shall not be required to permit the examination and copying of any of the following:

- (a) information that pertains to Condominium Property related personnel matters;
- (b) communications with legal counsel or attorney work product pertaining to pending litigation or other Condominium Property related matters;
- (c) information that pertains to contracts or transactions currently under negotiation, or information that is contained in a contract or other agreement containing confidentiality requirements and that is subject to those requirements;
- (d) information that relates to the enforcement of the Condominium Organizational Documents or Rules and Regulations of the Association against Unit Owners; or
- (e) information the disclosure of which is prohibited by state or federal law.

**ARTICLE VIII**  
**GENERAL POWERS OF THE ASSOCIATION**

**8.01**      **Payments from Maintenance Funds.** The Association shall establish and shall pay for out of the maintenance funds, the following:

- (a)      **Care of Common Elements.** The cost of landscaping, gardening, snow removal, painting, cleaning, maintenance, decorating, repair and replacement of the Common Elements.
- (b)      **Certain Maintenance of Limited Common Elements.** The cost of the maintenance and repair of any Limited Common Elements if such maintenance or repair is necessary in the discretion of the Association to protect the Common Elements or any other portion of a building, and the Unit Owner or Unit Owners of said Unit have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Association to said Unit Owner or Unit Owners, provided the Association shall levy a Special Individual Unit Assessment against such Unit Owner for the cost of said maintenance or repair.
- (c)      **Casualty Insurance.** The premium upon a policy or policies of fire insurance with extended coverage, vandalism and malicious endorsements, as provided in the Declaration, the amount of which insurance shall be reviewed annually.

(d) Liability Insurance. The premium upon a policy or policies insuring the Association, the members of the Board and the Unit Owners against any liability to the public or to the Unit Owners, their invites or tenants, incident to the ownership and/or use of the Common Elements, as provided in the Declaration, the limits of which policy shall be reviewed annually.

(e) Wages and Fees for Services. The fees for services of any person or firm employed by the Association, including but not limited to, the services of a person or firm to act as a Managing Agent and legal and/or accounting services necessary or proper in the operation of the Condominium Property or the enforcement of the Declaration and these By-Laws and for the organization, operation and enforcement of the rights of the Association.

(f) Worker's Compensation. The costs of workmen's compensation insurance to the extent necessary to comply with any applicable law.

(g) Discharge of Mechanic's Liens. Any amount necessary to discharge any mechanic's lien or other encumbrance levied against the entire Condominium Property or any part thereof which may in the opinion of the Association constitute a lien against the entire Condominium Property rather than merely against the interests therein of particular Unit Owners, it being understood however, that the foregoing authority shall not be in limitation to any statutory provisions relating to the same subject matter. Where one or more Unit Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it. Any costs incurred by the Association because of said lien or liens shall be specifically assessed to said Unit Owners.

(h) Additional Expenses. The cost of any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, common expenses or assessments which the Association is required to secure to pay for pursuant to the terms of the Declaration and these By-Laws, or which, in its opinion, shall be necessary or proper for the maintenance and operation of the Condominium Property as a first class condominium project, or for the enforcement of the Declaration and these By-Laws.

**8.02** Delegation of Duties. The Association, through its Board and officers, has the authority to delegate to persons, firms or corporations of its choice, such duties and responsibilities of the Association as the Board shall from time to time specify, and to provide for reasonable compensation for the performance of such duties and responsibilities.

**ARTICLE IX**  
**DETERMINATION AND PAYMENT OF ASSESSMENTS**

**9.01**        **Obligation of Owners to Pay Assessments.** Each Unit Owner shall have the duty and obligation to pay his proportionate share of the expenses of administration, maintenance and repair of the Common Elements and of other expenses provided for herein. Unless otherwise provided for, such proportionate share shall be based on his Percentage of Ownership. Payment thereof shall be in such amounts and at such times as may be determined by the Board as hereinafter provided.

**9.02**        **Preparation of Estimated Budget.** The Association shall, on or before December of every year, prepare an estimate of the total amounts necessary to pay the cost of wages, materials, insurance, services and supplies which will be required during the ensuing calendar year for the rendering of all services, together with a reserve for contingencies and replacements. Each Unit Owner shall be notified in writing as to the amount of such estimate, with reasonable itemization thereto which shall be subject to approval by the Members at their January regular meeting. On or before January 1<sup>st</sup> of the ensuing year and the 1<sup>st</sup> of each and every month of said year or at such quarterly or semi annual date, each Unit Owner shall be obligated to pay to the Association, or as it may direct, the assessment made pursuant to this Section. On or before the date of the December regular meeting in each calendar year the Association shall supply to all Unit Owners an itemized accounting of the maintenance expenses actually incurred for the preceding calendar year, together with a tabulation of the amounts collected pursuant to the estimate provided, and showing the net amount over or short of the actual expenditures plus reserves.

**9.03**        **Reserve for Contingencies and Replacements.** The Association shall build up and maintain a reasonable reserve for contingencies and replacements. Extraordinary expenditures not originally included in the annual estimate which may be necessary for the year shall be charged first against such reserve. If said estimated cash requirement proves inadequate for any reason, including non-payment of any Unit Owner's assessment, the same shall be assessed to the Unit Owners according to each Unit Owner's Percentage of Ownership or as otherwise stated herein. The Association shall serve notice of such further assessment on all Unit Owners by a statement in writing giving the reasons therefor, the amounts and the date or dates when such further assessment may be payable in a lump sum or in installments.

**9.04**        **Periodic Assessments.** Notwithstanding any provision in this Article, the Board may, at its option, elect that certain expenses such as insurance be paid by periodic assessments based on the billing date of such expenses. If the Board so elects such expenses shall be separately stated in the budget specifying the amount and due date thereof.

**9.05 Uniform Per Unit Expense.** In the event that the Association is billed or charged for certain services hereinbefore described on a non-discriminatory uniform per Unit basis by a third party, i.e. trash, management, the Board may elect to assess such expenses on a strictly per Unit basis. In such event such expenses shall not be considered Common Expenses to be allocated among the Units on the basis of their Percentages of Ownership. Such expenses shall be assessed on a uniform per Unit basis. The Board shall elect to exercise such option by separately stating and classifying such expenses as per Unit expenses in the annual budget. The Board, in order to collect such per Unit expenses, may avail themselves of the lien rights and other rights provided in the Declaration for the collection of assessments for Common Expenses.

**9.06 Failure to Prepare Annual Budget.** The failure or delay of the Association to prepare or serve the annual or adjusted estimate on the Unit Owner shall not constitute a waiver or release in any manner of such Unit Owner's obligation to pay the maintenance costs and necessary reserves as herein provided, whenever the same shall be determined. In the absence of any annual estimate or adjusted estimate the Unit Owner shall continue to pay the monthly maintenance charge at the existing monthly rate established for the previous period until the first monthly maintenance payment which occurs more than ten (10) days after such annual or adjusted estimate shall have been mailed or delivered.

**9.07 Audit.** Upon the written request of any lending institution holding mortgages on over fifty-one percent (51%) of the Units, or by any group of lending institutions who in the aggregate hold mortgages on over fifty-one percent (51%) of the Units, the books of the Association shall be audited, but not more than once every three (3) years by an independent registered or Certified Public Accountant, the results of which shall be sent to every Unit Owner of record, and the holder of any duly recorded mortgage against any Unit ownership who requests a copy thereof in writing.

**9.08 Remedies for Failure to Pay Assessments.** If a Unit Owner is in default in the monthly payment of the aforesaid charges, the Members of the Board may avail themselves of the lien rights and other rights provided for in the Declaration.

## **ARTICLE X GENERAL PROVISIONS**

**10.01 Copies of Notices to Mortgage Lenders.** Upon written request to the Board, the holder of any duly recorded mortgage against any Unit ownership, shall be given a copy of any and all notices and other documents permitted or required by the Declaration or these By-Laws to be given to the Unit Owner or Unit Owners whose Unit ownership is subject to such mortgage, and a copy of any lien filed by the Association.

**10.02**      **Service of Notices on the Board.** Notices required to be given to the Board or to the Association may be delivered to any Member of the Board or officer of the Association, either personally or by mail, addressed to such Member or officer at his Unit.

**10.03**      **Non-Waiver of Covenants.** No covenants, restrictions, conditions, obligations or provisions contained in the Declaration or these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

**10.04**      **Agreements Binding.** All agreements and determinations lawfully made by the Association in accordance with the procedures established in the Declaration and these By-Laws shall be deemed to be binding on all Unit Owners, their successors, heirs and assigns.

**10.05**      **Severability.** The invalidity of any covenant, restriction, condition, limitation or any other provision of these By-Laws, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of these By-Laws.

**10.06**      **Amendment.** The provisions hereof may be amended pursuant to the requirements set forth in the Declaration.

**10.07**      **Gender and Grammar.** Any necessary grammatical changes required to make the provisions hereof apply to trusts, partnerships or individuals, male or female, shall in all cases be assumed as though in each case fully expressed herein.

**EXECUTED** on the date(s) set forth in the acknowledgement of the signatures below.

**WYTHE PARISH HOMEOWNERS  
ASSOCIATION, INC.**

By: Alice Ellen Fox

By: Mary Wagner

By: Robert C. Winston

**STATE OF OHIO, COUNTY OF MONTGOMERY, SS:**

The foregoing instrument was acknowledged before me this 11 day of FEBRUARY, 2010 by SUB ELLER FOX, Member of the Board of Directors of Wythe Parish Homeowners Association, Inc., an Ohio not-for-profit corporation, on behalf of such corporation.



CYNTHIA L. LARKINS, Notary Public  
In and for the State of Ohio  
My Commission Expires Nov. 27, 2011

*Cynthia L. Larkins*  
Notary Public

**STATE OF OHIO, COUNTY OF MONTGOMERY, SS:**

The foregoing instrument was acknowledged before me this 11 day of FEBRUARY, 2010 by MARY WARNER, Member of the Board of Directors of Wythe Parish Homeowners Association, Inc., an Ohio not-for-profit corporation, on behalf of such corporation.



CYNTHIA L. LARKINS, Notary Public  
In and for the State of Ohio  
My Commission Expires Nov. 27, 2011

*Cynthia L. Larkins*  
Notary Public

**STATE OF OHIO, COUNTY OF MONTGOMERY, SS:**

The foregoing instrument was acknowledged before me this 11 day of FEBRUARY, 2010 by ROBERT O. WINSLOW, Member of the Board of Directors of Wythe Parish Homeowners Association, Inc., an Ohio not-for-profit corporation, on behalf of such corporation.



CYNTHIA L. LARKINS, Notary Public  
In and for the State of Ohio  
My Commission Expires Nov. 27, 2011

*Cynthia L. Larkins*  
Notary Public

**THIS INSTRUMENT PREPARED BY:**

**HANS H. SOLTAU**  
Attorney at Law  
6776 Loop Road  
Centerville, Ohio 45459

## EXHIBIT "B"

### CONSENTING OWNER LISTING

<u>Unit No.</u>	<u>Auditor's No.</u>	<u>Owner(s)</u>
One, Section 1	068-50209-0001	Sue Ellen Fox
Two, Section 1	068-50209-0002	William D. Stewart and Charion Stewart
Three, Section 1	068-50209-0003	Joan Frances Howley
Four, Section 1	068-50209-0004	David H. Love
Five, Section 1	068-50209-0005	Frank J. Camloh and Patricia W. Camloh
One, Section 2	068-50212-0001	Barbara A. Parkhurst
Two, Section 2	068-50212-0002	Dale W. Smith and Linda L. Smith
Three, Section 2	068-50212-0003	C. Daniel Raisch, Trustee and Joyce A. Raisch, Trustee
Four, Section 2	068-50212-0004	Kathleen A. Russell Rader, Trustee
Five, Section 2	068-50212-0005	Keith E. Gustafson, Trustee and Linda C. Gustafson, Trustee
Six, Section 2	068-50212-0006	Florence L. Spitzmiller
One, Section 3	068-50109-0001	Daniel G. Bukey and Mary Lynn Bukey
Two, Section 3	068-50109-0002	Gloria G. McDonald
Three, Section 3	068-50109-0003	Mary E. Wagner

<u>Unit No.</u>	<u>Auditor's No.</u>	<u>Owner(s)</u>
Four, Section 3	068-50109-0004	Jean M. Webster
Five, Section 3	068-50109-0005	Linda S. Brewer
Six, Section 3	068-50109-0006	Nadine L. Ballard
Seven, Section 3	068-50109-0007	Patricia Henson
Eight, Section 3	068-50109-0008	Thomas A. Bellin and Kristy M. Bellin
Nine, Section 3	068-50109-0009	Beth E. Thomas
Ten, Section 3	068-50109-0010	Barbara S. Winslow, Trustee

## EXHIBIT "C"

### GARAGE SPACE LISTING

Building 1A. The Garage Spaces therein are Limited Common Elements for Unit One, Section One (150) and Unit Two, Section One (152).

Building 1B. The Garage Spaces therein are Limited Common Elements for Units Three, Section One (154), Unit Four, Section One (156) and Unit Five, Section One (158).

Building 2. The Garage Spaces immediately adjacent to Unit One, Section Two (170) are Limited Common Elements for Unit One, Section Two (170) and Unit Two, Section Two (172).

Building 2A. The Garage Spaces therein are Limited Common Elements for Unit Three, Section Two (174).

Building 3. The Garage Space immediately adjacent to Unit Four, Section Two (56) is a Limited Common Element for such Unit.

Building 3A. The Garage Spaces therein are Limited Common Elements for Unit Five, Section Two (59) and Unit Six, Section Two (52).

Building 4. The Garage Space immediately adjacent to Unit One, Section Three (53) is a Limited Common Element for such Unit. The Garage Spaces between Unit Two, Section Three (55) and Unit Three, Section Three (57) are Limited Common Elements for such adjacent Units. The Garage Space immediately adjacent to Unit Four, Section Three (59) is a Limited Common Element for such Unit.

Building 5. The Garage Space immediately adjacent to Unit Five, Section Three (63) is a Limited Common Element for such Unit. The Garage Spaces between Unit Five, Section Three (63) and Unit Six, Section Three (65) is a Limited Common Element for Unit Six, Section Three (65). The Garage Space immediately adjacent to Unit Seven, Section Three (67) is a Limited Common Element for Unit Seven, Section Three (67). The Garage Spaces immediately adjacent to Unit Eight, Section Three (180) are Limited Common Elements for such Unit.

Building 6. The Garage Space immediately adjacent to Unit Nine, Section Three (71) is a Limited Common Element for such Unit. The Garage Spaces immediately adjacent to Unit Ten, Section Three (73) are Limited Common Elements for such Unit.

**PATIO AREA LISTING**

Building 1. The Patio Areas as shown on the Section One Drawings are Limited Common Elements for the adjacent Unit.

Buildings 2 and 3. The Patio Areas as shown on the Section Two Drawings are Limited Common Elements for the adjacent Unit.

Buildings 4 and 5. The Patio Areas as shown on the Section Three Drawings are Limited Common Elements for the adjacent Unit.