

808950
O.R. PG 883-922

CABI
SLIDE 23-36

DOCUMENT NUMBER

COUNTY OF SUMMIT
RECEIVED & RECORDED

93 FEB -3 PM 12: 03

RALPH JAMES - RECORDER

FEE \$ 84.00

302.40

\$ 386.40

OFFICIAL RECORD
(DO NOT REMOVE FROM RECORD
(PAGE 1 OF RECORD))

MAIL TO:
Whitlatch & Co
Joan
425-3500

OR1217- 883

WHITLATCH & CO.

TO

COVINGTON LANE CONDOMINIUM ASSOCIATION

DECLARATION OF CONDOMINIUM OWNERSHIP

FOR

COVINGTON LANE CONDOMINIUM

This will certify that copies of this Declaration, with the following Exhibits attached, have been filed in the office of the Auditor of Summit County, Ohio.

- 1. Exhibit "A" - Condominium Association By-Laws.
- 2. Exhibit "B" - General Plan of Condominium Domain.
- 3. Exhibit "C" - Schedule of Percentages of Interest.

TRANSFERRED
 93 FEB -3 AM 11:41
 SUMMIT COUNTY AUDITOR

SUMMIT COUNTY AUDITOR

James B. McCloskey

BY: *C. Wyatt*
Deputy Auditor

DATED *February 3*, 1993

Description Approved By
TAX MAP DEPARTMENT

TWINS
4
2-3-93 J.

This instrument prepared by:
Susan L. Hirsch
Attorney at Law
10800 Ravenna Road
Twinsburg, Ohio 44087
(216) 425-3500

2/2/93.

APPROVED AS TO FORM

William E. Schmitt
Assistant Prosecuting Attorney, Summit County, Ohio

INDEX

ITEM	PAGE
1. Submission of Property	4
2. Name of Condominium	4
3. Description of Land	4
4. Grantor's Reservation of Rights; Dedication of Street	4
5. Units	5
6. Description of Buildings	5
7. Type of Units	5
8. Definition of Space within Units	6
9. Common Areas and Facilities	7
10. Limited Common Areas and Facilities	7
11. Proportionate Representation; Participation in Common Profits and Expenses; Definitions	8
12. Covenants and Agreements	8
13. Restrictions as to Use and Occupancy of the Condominium Property	10
14. Architectural Control	11
15. Assessment Liens; Costs of Enforcement	11
16. Destruction of, or Damage to Property; Effect	12
17. Acquisition of a Unit at Foreclosure Sale; Effect	14
18. Conveyance of Units; Liability for Assessments	14
19. Eminent Domain	14

20. Agreements and Determinations of the Association	15
21. Arbitration of Disputes Between Unit Owners	15
22. Insurance	16
23. Duties and Liabilities of Grantor	17
24. Receipt of Service of Process	17
25. Amendment of Declaration	17
26. Invalidity	17
27. Waiver	17
28. Captions	18

DECLARATION OF CONDOMINIUM OWNERSHIP
COVINGTON LANE CONDOMINIUM

This Declaration made this 1st day of September, 1992 pursuant to Chapter 5311 of the Ohio Revised Code by Whittlatch & Co., a Corporation organized and existing under the laws of the State of Ohio, having its principal offices at 10800 Ravenna Road, Twinsburg, Ohio, 44087 and referred to hereinafter as Grantor.

1. Submission of Property.

Grantor, which is Owner in fee simple of the lands, the buildings and all other improvements constructed or to be constructed thereon, together with all easements, rights, and appurtenances belonging thereto, and all other property personal or mixed, intended for use in connection therewith, as described below and hereinafter collectively referred to as the "Property", hereby declares certain divisions, covenants, restrictions, limitations, conditions and uses respecting the Property, intending thereby to submit the Property to the provisions of Chapter 5311 of the Ohio Revised Code, hereinafter referred to as the Condominium Act, and further intending thereby to create covenants running with the land and binding the Grantor, its successors and assigns forever.

2. Name of Condominium.

The Condominium shall be known as COVINGTON LANE CONDOMINIUM.

3. Description of Land.

The land on which the buildings and improvements constituting the Property are to be located is described as follows:

Situating in the City of Twinsburg, County of Summit and State of Ohio and known as being part of Original Twinsburg Township Lot 3, Tract 2 and being all of Block 3D-1 in Ethan's Green as shown by the Map of Survey recorded in Plat Cabinet "H", Slide 964 of Summit County Map Records, be the same more or less but subject to all legal highways and easements of record.

4. Grantor's Reservation of Rights; Dedication of Street.

Grantor hereby reserves unto itself the right to offer the entirety of Covington Lane in Dedication to the City of Twinsburg, Ohio as a public right-of-way and the right to grant any easements for the purpose of extending utilities on or through the Common Areas of the Condominium Domain. Grantor shall have full right and authority to execute a Dedication Plat and any and all instruments necessary and required by the City of Twinsburg or any public or private utility to effect said Dedication of Covington Lane or said utility easement.

5. Units.

There will be a total of 26 Units, each with its own street address, contained in ten (10) buildings as shown on the General Development Plan for Covington Lane Condominium, attached hereto as Exhibit "B". All Units will be restricted to residential use, and all will be compatible in quality of construction, the principal materials to be used and in architectural style. The address for each Unit, the type of Unit it is and the proportionate interest of its Owner in the Common Areas and Facilities of Covington Lane Condominium are set forth in the Schedule of Percentage of Interest attached hereto as Exhibit "C".

6. Description of Buildings.

The buildings constructed upon the Property are 1 and 1½ story, multi-family dwellings containing between 2 and 3 dwelling Units and the private garages associated with such dwelling Units.

In general, the buildings are constructed on a concrete slab; however, where major changes in topography occur between the front and rear of the building, the buildings so affected are constructed with basements. Vinyl or aluminum siding, aluminum windows and trim are used as exterior finishes on all dwelling Units and garages. Each Unit includes a deck or patio depending upon the topography evident at the rear of the Unit.

7. Type of Units

A total of three (3) different Unit types, hereinafter referred to as Unit Types "A", "B", and "C" are to be constructed at Covington Lane Condominium. The following is a description of each Unit Type. The exact limits of the Limited Common Area of each Unit is shown on Exhibit "B" to the Declaration of Condominium.

Unit Type "A"**- The Gloucester/Chesapeake series.**

These Units are 34' wide by 26' deep, one and one half story dwellings and are offered in five different floor plans. These Units have a Limited Common Area that is 20' deep in the rear and 15' to 22' deep in the front. The width of the Limited Common Area is 54' for two-car garage units and 46' if the Unit has a one-car garage. Where the Unit is also an end Unit the Limited Common Area may extend up to 5' to the side of the Unit. The exact limits of the Limited Common Area of each Unit are shown on the Condominium Plat.

Unit Type "B"**- The Hyannis/Nantucket series.**

These Units are 26' wide and 34' deep, one and one half story dwellings and are offered in two different floor plans. These Units have a Limited Common Area that is 20' deep in the rear and 15' to 22' deep in the front. The width of the Limited Common Area is 46' feet for Units with a two-car garage and 38' for Units with a one-car garage. Where the Unit is also an end Unit the Limited Common Area for the Unit may extend up to 5'

to the side of the Unit. The exact limits of the Limited Common Area of each Unit are shown on the Condominium Plat.

Unit Type "C"
- The Plymouth series.

These Units are 36' wide by 26' deep, one story dwellings with a 14' by 16' wing which may be extended to the front, rear or side of the Unit. These Units are normally constructed as end Units and have a Limited Common Area that extends 22' from the front of the garage and 20' from the rear of the dwelling. Where the wing extends to the front or rear, the wing is in the Limited Common Area. The width of the Limited Common Area is 61' when the wing is to the front or rear. Where the wing is to the side of the Unit, the width of the Limited Common Area is 75'. The exact limits of the Limited Common Area of each Unit are as shown on the Condominium Plat.

The Grantor hereby reserves the right to add additional Unit types which will be shown, with their Limited Common Areas on "As Built" drawings filed with the County Recorder prior to the transfer of ownership of these Units. Such additional Unit types will be compatible in quality of construction and the principal materials to be used and architectural style to the Unit types described herein. While some types may be acquired as "Limited Edition" models with 64 square feet greater foundation area or with certain plan options which likewise add to the foundation area, these modification do not affect the Limited Common Area of the dwelling's type. Such plan modifications, along with the locational characteristics of the Unit, do affect the Base Selling Price of each Unit, and its Percentage Interest in the Condominium.

8. Definition of Space within the Units.

Each of the Units shall consist of all of the space bounded by the interior surfaces of the perimeter walls, floors and ceilings of the Unit and such interior walls and other partitions or roof rafters necessary to constitute a complete enclosure of space. Wherever such surfaces consist of plaster or plasterboard, all of such plaster and plasterboard contiguous to such surface shall be included within the Unit. The exact layout and dimensions of each Unit are shown in Exhibit "B" and include, without limitation:

(A) Inclusions:

(1) The decorated surfaces, including paints, lacquer, varnish, wallpaper, tile and any other finishing material applied to perimeter walls, floors, and ceilings;

(2) All windows, screens and doors (other than the exterior of the garage door), including the frames, sashes and jambs, and the space occupied thereby;

(3) All fixtures 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 and from utility pipes, lines or systems serving the entire building or more than one Unit thereof;

(4) 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;

(5) All space between interior walls, including the space occupied by utility pipes, wires, ducts and conduits which serve the individual Unit; but excluding the space occupied by structural and component parts of the building, and which serve any other Unit;

(6) All plumbing, electric, heating, cooling and other utility or service lines, pipes, wires, ducts or conduits which serve either the individual Unit or the fixtures located therein, and which are located within the bounds of the Unit; and

(7) All decks, patios, fencing or walls which are part of the original construction or which are made by the Unit Owner after having been approved by the Board of Managers; but, excepting therefrom, all of the following items (said items shall be Common Areas and Facilities) located within the bounds of any Unit as described above:

(B) Exceptions:

(1) Any part of the structure contained in any interior walls, and the structural component parts of perimeter walls;

(2) All vent covers, grills, plate covers and other coverings of space which are not part of the Unit as defined above;

(3) All plumbing, electric, heating, cooling and other utility or service lines, pipes, wires, ducts and conduits which serve any other Unit;

(4) All supporting walls, fixtures and other parts of the Building which are within the boundaries of a Unit but which are necessary for the existence, support, maintenance, safety or comfort of any other part of the Condominium Property;

(5) All Porches or Room Additions which are part of the original construction or which are made by the Unit Owner after having been approved by the Board of Managers.

9. Common Areas and Facilities.

Common Areas and Facilities shall consist of the Land; all foundations, slabs, structural elements and exterior surfaces of all buildings; all exterior utility lines and all shared interior utility lines, drives and parking areas, trees, shrubs and landscaping and other common features.

10. Limited Common Areas and Facilities.

Limited Common Areas and Facilities are those portions of the Common Areas and Facilities that are immediately adjacent to the respective Condominium Units and are hereby set aside for the exclusive use of the respective Condominium Unit Owners subject to such restrictions governing their use as may be established by the By-Laws of Covington Lane Condominium Association. The extent of the Limited Common Area for each of the respective condominium units is shown on the General Plan for Covington Lane Condominium attached hereto as Exhibit "B". The Limited Common Area

typically extends at least 22 feet from the front of the unit garage and 20 feet from the front and rear of the Units, and 5 feet from the side of any end unit.

11. Proportionate Representation; Participation in Common Profits, and Expenses; Definitions.

Each Unit Owner shall share in the common profits and expenses, as hereinafter defined, and in the total voting power of the Unit Owners' Association in accordance with such Unit Owner's interest in the Common Areas and Facilities as set forth in the Schedule of Percentage of Interest, attached hereto as Exhibit "C". Proportionate representation may be limited in accordance with the provisions of the BY-Laws attached hereto as Exhibit "A".

The Percentage of Interest is calculated at one point in time to reflect the cost of the base Unit, site feature premiums and plan options of each Owner's Unit, divided by the total of the cost of all base Units, site feature premiums and plan options of all Units. This calculation is made based upon projections prior to the start of construction and again upon the completion of construction of all Units, and thus may not reflect a Unit Owner's actual cost.

The Board of Managers shall have the right to make an additional assessment on any Unit with a Porch or Room Addition which is made the Unit Owner, after having been approved by the Board of Managers, to pay for the additional cost of maintenance, repair, replacement and insurance for such additions which become part of the Common Area and Facilities. Such additional assessment to any Unit will not affect the Percentage of Interest of such Unit.

12. Covenants and Agreements.

Grantor, its successors and assigns, by this Declaration, and all further Owners of Units, by acceptance of their respective deeds, hereby covenant and agree as follows:

(A) The Common Areas and Facilities shall remain undivided, and no right shall exist to partition or divide any of them, except when withdrawal of the Property from the Condominium Act is authorized by the affirmative vote of all Unit Owners. In that event, the Board of Managers shall cause to be paid, released or discharged all liens and encumbrances, except taxes and assessments not then due and payable, on all or any part of the Condominium Property and shall cause to be filed in the offices of the Auditor and Recorder of the County, a certificate signed by the president of the Unit Owners' Association, stating that all Owners of the Condominium have elected to remove the Property from the Condominium Act, and that encumbrances have been paid, released or discharged.

On the filing of such certificate, the Property will be deemed removed from the provisions of the Condominium Act, and will be held in common by all Unit Owners in proportion to their respective interests in the Common Areas and Facilities of the Condominium as established herein.

(B) If any portion of the Common Areas and Facilities encroaches on any Unit, or if any Unit encroaches on any other Unit, or any portion of the Common Areas, as a result of the construction of the Buildings; or if any such encroachment shall occur as a result of settling or shifting of Buildings, a valid easement for such encroachment and for the maintenance of the same so long as the Buildings stand, shall exist. In the event a Building or Buildings, or any Common Areas therein, shall be partially or totally destroyed, as a result of fire or other casualty, or as a result of condemnation or eminent domain proceedings, and then rebuilt, the minor encroachments of parts of the Common Areas on any Unit, or of any Unit on any other Unit or any portion of the Common Areas, due to such rebuilding, shall be permitted, and valid easements for such encroachments and the maintenance thereof for so long as the Buildings stand, shall exist.

(C) Each Unit Owner shall have an easement in common with the Owners of all other Units to use all pipes, wires, ducts, cables, conduits, public utility lines and other Common Areas located in any of the other Units. The Board of Managers, on behalf of all Unit Owners, shall have a right of access to each Unit to inspect the same, and to maintain, repair or replace the Common Areas therein or appurtenant thereto.

(D) Each Unit shall be used by its respective Owner only as a residential dwelling by the Owner, his family, tenants, and social guests, and for no other purpose whatsoever. The Developer shall have the right to rent or lease any Units remaining in its name until such time as the same are sold to individual purchasers. No Unit Owner may partition or subdivide any Unit.

(E) Each Owner of a Unit or Units shall, automatically upon becoming Owner of such a Unit or Units, become a member of a Unit Owners' Association to be established for the administration of the Condominium Property and shall remain a member thereof until such time as his Ownership shall for any reason cease, at which time his membership in the Association shall likewise cease.

(F) Administration of the Condominium shall be in accordance with the provisions of this Declaration and the By-laws of the Association which are made a part hereof and attached hereto as Exhibit "A".

(G) Each Unit Owner shall comply with the provisions of this Declaration, and the By-Laws, decisions and resolutions of the Association, as lawfully amended from time to time. Failure to comply with such provision, decision or resolution shall be grounds for an action for damages or for injunctive relief, or both, brought by the Unit Owners' Association, by a Unit Owner or Owners, or both.

(H) No Owner of a Condominium Unit may exempt himself from liability for his proportionate share of the common expenses by waiver of the use or enjoyment of any of the Common Areas, or by abandonment of his Condominium Unit.

13. Restrictions as to the Use and Occupancy of the Condominium Property.

The following restrictions, conditions and limitations shall run with the land and shall be binding upon each Unit Owner and each Unit Owner's heirs, tenants, successors and assigns:

(A) Each Unit shall be used for residential purposes and for no other purpose. That portion of the Unit that was originally constructed for use as a garage shall be used solely for garage and storage purposes.

(B) A Unit Owner may use a portion of his Unit for his office or studio subject to the following provisions:

(1) Such use meets the requirements for a home occupation within the City of Twinsburg;

(2) Such use does not interfere with the quiet enjoyment of any other Unit Owner or Occupant;

(3) Such use is compatible with the residential character of the Condominium and does not result in the Unit becoming principally an office, studio or school distinct from a residence. The Board may adopt Rules which further limit such use.

(C) Nothing shall be done or kept within any Unit, Limited Common Area or Common Area that would result in an increase in the rate of insurance applicable for residential use as the same pertains to the Condominium Property, without the written consent of the Board.

(D) No Unit Owner shall keep, store, or use any hazardous or toxic substance or waste (as defined by applicable law or regulation) within his Unit, Limited Common Area or Common Area without the prior written consent of the Board. Owners and Occupants must not pour or spill any oil, solvent, or any other volatile or inflammable material into the storm sewers, garage catch basins, or Common Areas. Ohio EPA and the City of Twinsburg prohibit such dumping.

(E) Other than those originally approved by the Developer, no installation or improvement, including without limitation, a sign, awning, canopy, screen, shutter, external or outside antenna of any kind, or any other item shall be permitted without the prior written consent of the Board of Managers.

(F) No animals shall be raised, bred or kept in any Unit or Common Area for any commercial purpose. Dogs, cats or other common household pets may be kept in a Unit subject to any Rules that may be adopted by the Board of Managers. Owners must clean up after their pets. Pets cannot be tied in any Common Area and no stake poles and runs are to be placed in any Common Area.

(G) No clothing or any other household fabric shall be hung outside of any Unit.

(H) No commercial truck, motor home, boat or other similar commercial or recreational vehicle, licensed or unlicensed, may be parked or stored on any street or driveway in or upon the Condominium Development except in the confines of the garage.

(I) No furniture or appliances are to be placed permanently on common areas. Picnic tables, grills, etc. may be used on common areas but must be removed from the grass area after use and placed in the patio or deck area. Toys, tricycles, etc. may not be left in the common areas overnight.

(J) Nothing may be stored in the patio or deck area other than patio furniture, grills, etc.

14. Architectural Control.

No building, fence, wall or other structure shall be erected, placed, or altered within the Condominium Development until the plans and specifications showing the nature, kind, shape, height(s), materials, colors and location of the same shall have been submitted to and approved by the Developer in writing, to assure the harmony of external design and location in relation to surrounding structures and topography. Responsibility for "Architectural Control", as described above, will transfer from the Developer to the Board of Managers for Covington Lane Condominium, upon completion of construction of all Units within the Condominium Development.

Once any plan or specification is approved by the Covington Lane Condominium Association, final approval must also be received in writing from the Architectural Review Committee of the Ethan's Green Homeowners' Association.

15. Assessment Liens; Costs of Enforcement.

All sums assessed by the Association for common charges applicable to any Condominium Unit remaining unpaid for more than ten (10) days after same have become due and payable shall constitute a lien on such Condominium Unit prior to all other liens subsequently arising or created, except:

- (i) real estate tax and assessment liens of record, and
- (ii) first mortgage liens of record.

Such lien may be foreclosed in the same manner as a mortgage on real Property on behalf of all Unit Owners by the President of the Association, pursuant to the authorization of the Board of Managers thereof. During the pendency reasonable rental for the Unit and the Board of Managers shall be entitled to appoint a receiver to collect the same. The Board of Managers, acting on behalf of the Owners of all Units, shall have the power to bid on the Unit at foreclosure, and to acquire, hold, mortgage, and convey the same. Suit to recover a money judgement for unpaid common expenses may also be maintained without foreclosure or waiving the lien securing the payment of such expenses.

A Unit Owner (whether by his or her conduct or the conduct of any occupant in his or her Unit) violating any provision in this Declaration, or the By-Laws (including collection of delinquent accounts), or any Rule adopted thereunder, shall pay to the Association, in addition to any other sums due, all costs and expenses incurred by the Association

in connection with the enforcement of said provision or rule or collection of the delinquent account, including attorney's fees, recording costs, court costs, title reports or any other similar type of costs.

16. Destruction of, or Damage to Property; Effect.

(A) Responsibility for Reconstruction or Repair:

(1) If any portion of the Common Areas and Facilities shall be damaged by perils covered by the Casualty Insurance, the Association shall cause such damaged portion to be promptly reconstructed or repaired to the extent of the funds made available to the Board of Managers, as hereinafter provided, and any such reconstruction or repair shall be substantially in accordance with the Drawings (Exhibit "B" as filed with the County Recorder); provided however, if such damage renders one-half or more of the Units then comprised within the Condominium Property untenable, the Unit Owners may, by the vote of those entitled to exercise not less than seventy-five percent (75%) of the voting power, elect not to reconstruct or repair such damaged part at a meeting which shall be called within ninety (90) days after the occurrence of the casualty; or, if by such date the insurance loss has not been finally adjusted, then within thirty (30) days after such final adjustment.

Upon such election, all of the Condominium Property shall be subject to an action for sale as upon partition at the suit of any Unit Owner. In the event of any such sale of the Condominium Property after such election by the 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 construction, shall be considered as one fund and shall be distributed to all Unit Owners in proportion to their respective Percentages of Interest in the Common Areas and Facilities.

No Unit Owner, however, shall receive any portion of this share of such proceeds until all liens and encumbrances on his Unit have been paid, released or discharged.

(2) Each Unit Owner shall be responsible for reconstruction and repair of his Unit after any casualty.

(B) Procedure for Reconstruction or Repair:

(1) Immediately after a casualty causing damage to any portion of the Common Areas and Facilities the Board of Managers of the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as the condition of the property before the casualty. Such costs may include professional fees of public adjuster firms and others and premiums for such bonds as the Board deems necessary.

(2) If the proceeds of the Casualty Insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association (including the aforesaid fees and premiums, if any) one or more special assessments shall be made against all Unit owners in sufficient amounts to provide funds for the payment of such costs, and the proceeds of such special assessments shall be retained separately by the Board of Managers.

(3) The proceeds of the Casualty Insurance referred to in Section 2(B) and the sums deposited with the Board of Managers from collections of special assessments against Unit Owners on account of such casualty, shall constitute a construction fund which shall be applied by the Board of Managers to the payment of the cost of reconstruction and repair of the Common Areas and Facilities from time to time as the work progresses, but not more frequently than once in any calendar month. The Board of Managers shall make such payments upon a certificate, dated not more than fifteen (15) days prior to such request, signed by an architect in charge of the work, who shall be selected by the Board of Managers, setting forth:

(a) that the sum then requested either has been paid by the Association or is justly due to contractors, subcontractors, materialmen, architects, or other persons who have rendered services or furnished materials in connection with the work, giving a brief description of the services and materials, and that the sum requested does not exceed the value of the services and materials described in the certificate;

(b) that except for the amount stated in such certificates to be due as aforesaid less any prescribed holdback of funds, and for work subsequently performed, there is no outstanding indebtedness known to the person signing such certificate, after due inquiry, which might become the basis of a vendor's, mechanic's, materialmen's or similar lien arising from such work;

(c) that a Waiver of Lien as required by Section 1311 of the Ohio Revised Code will be obtained upon payment; and

(d) that the cost as estimated by the person signing such certificate of the work remaining to be done subsequent to the date of such certificate will not exceed the amount of the construction fund remaining in the hands of the Board of Managers after the payment of the sum so requested. It shall be presumed that the first monies disbursed in payment of such costs of reconstruction and repair shall be from insurance proceeds; and if there is a balance in any construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be retained by the Board of Managers for the maintenance, repair and replacement of these Common Areas and Facilities.

(4) Each Unit Owner shall be deemed to have delegated to the Board his right to adjust with insurance companies all losses under the Casualty Insurance policies.

(C) Minor Repairs

(1) Notwithstanding the foregoing provisions of this Section, if the aggregate amount of the estimated costs of repairing any damage to the Common Areas and Facilities is less than Ten Thousand Dollars (\$10,000.00), the damage shall be repaired. Such insurance proceeds as are received on account of such damage shall be used by the Board of Managers to defray the cost of repairing the damage to the Common Areas and Facilities.

(2) If the cost of such repairs is less than the amount of such insurance proceeds, the excess shall be retained by the Board of Managers and placed in the maintenance fund or contingency fund as the Board in its sole discretion may determine. If the cost of such repairs exceeds the amount of such insurance proceeds, such excess may be provided either by means of Common Assessment levied by the Board against all Unit Owners in proportion to their respective Percentage of Ownership Interest in the Common Areas and Facilities, or by means of an appropriation from the contingency fund or such other fund as may be established for the purpose of providing for the maintenance, repair and replacement of the Common Areas and Facilities, as the Board may determine.

(D) **Negligence of Unit Owner.**

Each Unit Owner shall be liable for the expenses of any maintenance, repair or replacement rendered necessary by his negligence or by that of any member of his family or his or their guest, employees, agents or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Association. A Unit Owner shall pay the amount of any increase in insurance premiums occasioned by his use, misuse, occupancy or abandonment of his Unit or its appurtenances or of the Common Areas and Facilities or Limited Common Areas and Facilities.

17. Acquisition of a Unit at Foreclosure Sale; Effect.

Any first mortgagee who obtains title to a Condominium Unit pursuant to the remedies provided in the mortgage, a deed in lieu of foreclosure, or foreclosure will not be liable for such Unit's unpaid assessments or charges which accrue prior to the acquisition of title to such Unit by the mortgagee. Any such unpaid share of common expenses or assessments shall be deemed common expenses collectible from all Condominium Units including the Unit acquired by such purchaser, his heirs, successors and assigns.

18. Conveyance of Units; Liability for Assessments.

Whenever a Condominium Unit is voluntarily conveyed, the Grantee shall be jointly and severally liable with the Grantor for all unpaid assessments by the Association against the latter for his share of common expenses up to the time of conveyance without prejudice to the Grantee's right to recover from the Grantor any amount paid by the Grantee for such assessments. Any Grantee shall be entitled to a statement from the Board of Managers of the Association setting forth the amount of any unpaid assessment due the Association from the Grantor. If such statement is requested, the Grantee shall not be liable, nor shall the Unit conveyed to such Grantee be subjected to a lien, for any unpaid assessment due the Association from the Grantor in excess of the amount set forth therein.

19. Eminent Domain.

(A) In the event that there is a taking of all or any portion of the Condominium property by eminent domain proceedings or conveyance under the threat thereof, each Unit Owner designates the Association and its duly authorized agents as the Unit Owners agent to negotiate and settle all matter concerning the eminent domain.

(B) In the event that the entire Condominium property or substantially all thereof is taken through eminent domain proceedings or the threat thereof, the Condominium shall terminate. In that event, the Board of Managers shall cause to be paid, released or discharged all liens and encumbrances, except taxes and assessments not then due and payable, on all or any part of the Condominium Property and shall cause to be filed in the offices of the Auditor and Recorder of the County, a certificate signed by the president of the Unit Owner's Association, stating that all Owners of the Condominium have elected to remove the Property from the Condominium Act, and that encumbrances have been paid, released or discharged; and the award or proceeds shall be apportioned among the Unit Owners in accordance with their percentage interest in the Common Areas and Facilities as set forth in the Schedule of Percentage of Interest attached hereto as Exhibit "C".

(C) In the event that substantially less than the entire Condominium Property is taken by eminent domain proceedings or disposed of in lieu thereof, the Condominium shall not terminate and the Board shall allocate, apportion and distribute the award or proceeds as follows:

1) The amount allocated to the taking of or injury to Common Area and Facilities, including any consequential damages, shall be distributed to the Association.

2) The amount allocated to the taking of or injury to any Unit shall be distributed to the Unit Owner.

3) The amount allocated for severance or consequential damages to one or more Units shall be apportioned among and distributed to the Unit Owners in the ratio that their percentage interest bears to the aggregate percentage interests of all Unit Owners so damaged.

4) In the event that a partial taking results the taking of an entire Unit, the percentage interest of such Unit in the Common Area and Facilities shall be reallocated to each remaining Unit in the ratio that the percentage interest of each remaining Unit bears to the aggregate percentage interests of all remaining Units.

20. Agreements and Determinations of the Association.

All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in the By-laws attached as Exhibit "A" shall be binding on all Unit Owners, their heirs, successors and assigns.

21. Arbitration of Disputes Between Unit Owners.

In the event of any dispute between Unit Owners as to any provision in the Declaration, the By-Laws, or any rule or regulation adopted thereunder to any particular circumstance, the aggrieved party shall submit a complaint in writing to the Board specifying such dispute. The Board shall forward a copy of the complaint to the person named in the complaint and the Board shall set a time, date and place for a hearing within forty-five (45) days thereafter and give written notice to each party thereof not less than five (5) days in advance. Such time period may be shortened or lengthened by the Board if the circumstances stated in the complaint would reasonably require a longer or shorter time period to arbitrate such dispute. The Board shall thereupon hear such evidence on the dispute as the Board deems proper and render a written decision on

the matter to each party within ten (10) days thereafter (unless such decision would reasonably require a longer time period but not to exceed, in any event, thirty (30) days). No action at law may be instituted by either party to such a dispute unless arbitration pursuant hereto has first been had. The decision of the Board shall not be deemed to be binding on either party to the arbitration and the Board and its individual members shall not be held personally liable for any decision rendered pursuant to such arbitration procedure.

22. Insurance.

(A) The Board of Managers of the Unit Owners' Association shall insure all Unit Owners, their tenants and all persons lawfully in possession or control of any part of the Condominium Property, against liability for personal injury or Property damage arising from or relating to the Common Areas and Facilities, in amounts deemed necessary by the Board of Managers, but in no event less than \$1,000,000.00.

(B) The Board shall also obtain for the benefit of Unit Owners, fire and extended coverage, vandalism and malicious mischief insurance (the "Casualty Insurance") on all buildings and structures of the Condominium Property. Such insurance shall be in an amount not less than 100% of the insurable replacement value thereof as determined by the insurance carrier and shall be on a blanket basis.

The insurance shall be written in the name of, and the proceeds thereof shall be payable to, the Association as trustee for the Unit Owners and their respective mortgagees, as their interest may appear, and provision shall be made for the issuance, upon request, of certificates of such insurance to the Unit Owners and their respective mortgagees.

The coverage afforded by such insurance shall be reviewed by the Board not less frequently than once a year to determine if the amounts payable thereunder and the coverage thereof comply with the requirements of this Paragraph. Such insurance shall also provide for the waiver by the insurer of any and all rights of subrogation or assignment; which waiver shall be over and above any and all causes and rights of recovery against the Unit Owners, and their respective families, tenants, guests and servants, and each of them, the Association, the Board, any managing agent and all persons lawfully in possession or control of any part of the Condominium Property, for recovery against them or any of them for any loss occurring to the insured Property resulting from any of the perils insured against under such insurance policy. The Board shall not use fire and extended coverage proceeds other than for the repair of the Condominium Property except as set forth in Section 16 herein.

(C) Each Owner may, at his own expense, obtain insurance covering the contents of his individual Unit, including, but not limited to, all floor and wall coverings, furniture, fixtures and other betterment installed by each Unit Owner, and any personal property which he stores elsewhere on the Condominium Property. Further, each Unit Owner may, at his own expense, obtain public liability insurance for personal injuries or damage arising out of the use and occupancy of his Unit and Casualty Insurance affording coverage upon his Unit and property inasmuch as the same will not be insured by the Association. However, such Casualty Insurance shall provide that it shall be without contribution as

against the Casualty Insurance purchased by the Association, or shall be written by the carrier of such Casualty Insurance and shall contain the same waiver of subrogation as that referred to in subsection (B) above.

23. Duties and Liabilities of Grantor and/or the Developer.

So long as Grantor and/or the Developer, their successors and assigns own one or more of the Condominium Units established and described herein, Grantor and/or the Developer, their successors and assigns shall be subject to the provisions of this Declaration and all Exhibits attached hereto. Grantor and/or the Developer further covenant to take no action that would adversely affect the right of the Association with respect to assurances against latent defects in the Property, or other rights assigned to the Association by reason of the establishment of the Condominium.

24. Receipt of Service of Process.

Donald L. Martin, Attorney at Law, having his principal place of business at 10800 Ravenna Road, Twinsburg, Ohio 44087 is hereby designated to receive service of process on behalf of the Unit Owners' Association in any action that may be brought, or proceedings that may be instituted by or against the Board of Managers or Unit Owners' Association.

25. Amendment of Declaration.

This Declaration may be amended by the affirmative vote of those Unit Owners entitled to exercise not less than seventy-five percent (75%) of the total voting power of the Unit Owners' Association, cast in person or by proxy at a meeting duly called and held in accordance with the By-Laws attached hereto as Exhibit "A". No such amendment shall be effective until recorded in the office of the Summit County Recorder.

26. Invalidity.

If any one or more provisions of this Declaration are declared invalid, such invalidity shall in no way impair or affect in any manner, the enforceability, or effect, of the remainder of this Declaration.

27. Waiver.

No provision contained in this Declaration shall be deemed waived by reason of failure to enforce the same, irrespective of the number of violations or reason for such failure to enforce.

28. Captions.

Captions are inserted in this Declaration for convenience and reference only, and shall not be taken in any way to limit or describe the scope of this Declaration or any provision thereof.

Signed in the presence of:

GRANTOR

WHITLATCH & CO.



DONALD L. MARTIN



JOAN ERSKINE

By: 

WM. C. WHITLATCH, Pres.

STATE OF OHIO)
COUNTY OF SUMMIT)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named WHITLATCH & CO., An Ohio Corporation, by WM. C. WHITLATCH, President, to me personally known, who acknowledged that he did sign the foregoing instrument and that the same is the free act and deed of him personally and as such officer and the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Twinsburg, Ohio this 1st day of SEPTEMBER, 1992.



Notary Public

DONALD L. MARTIN, Attorney
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date.
Section 147.03 R.C.