

EXHIBIT C

CONDOMINIUM BY-LAWS

LAKE MICHIGAN VIEW AT DIAMOND POINT

ARTICLE 1. ASSOCIATION OF CO-OWNERS

- 1.1 Establishment of Association.** Lake Michigan View at Diamond Point, a residential site condominium project located in the City of New Buffalo, Berrien County, Michigan (the Project), shall be administered by an association of co-owners which shall be a non-profit corporation, hereinafter referred to as the "Association" or "Diamond Point Condominium Association, Inc.", organized under the applicable laws of the State of Michigan, and responsible for the management, maintenance, operation and administration of the common elements, easements and affairs of the condominium project in accordance with the Master Deed; these Condominium By-Laws; the Articles of Incorporation; and the laws of the State of Michigan. All co-owners in the condominium project and all persons using or entering upon or acquiring any interest in any unit therein or the common elements thereof shall be subject to the provisions and terms set forth in the aforesaid condominium documents.
- 1.2 Compliance.** All present and future co-owners, mortgagees, lessees, and all other persons who may in any manner use, enter upon or acquire any interest in the Project, shall be subject to and comply with the provisions of the Michigan Condominium Act (Act 59 of the Public Acts of 1978, as amended); the Master Deed; the Condominium By-Laws; and the Articles of Incorporation, including, but not necessarily limited to, any provision thereof, pertaining to the use and operation of the condominium premises and the property of the condominium project. The acceptance of a deed or conveyance, the taking of a mortgage, the execution of a lease, or the act of occupancy of a unit, or presence in the condominium shall constitute an acceptance of the provisions of these instruments and an agreement to comply therewith.
- 1.3 Purpose.** These Condominium By-Laws govern the general operation, maintenance, administration, use and occupancy of the Project, and all such activities shall be performed in accordance with the provisions hereof.
- 1.4 Membership and Voting.** Membership in the Association and voting by members of the Association shall be in accordance with the following provisions:
- A.** Each co-owner of a unit in the condominium project, present and future, shall be a member of the Association during the term of such ownership; and no other persons or entities shall be entitled to membership.
 - B.** Neither membership in the Association, nor the share of a co-owner in the funds and assets of the Association can be assigned, pledged or transferred in any manner except as an appurtenance to his unit in the condominium.
 - C.** Except as otherwise provided in the Master Deed and in these Condominium By-Laws, the co-owner(s) of each unit shall collectively be entitled to one vote which shall be equal to the total percentage assigned to the unit(s) owned by them pursuant to Paragraph 5.4 of the Master Deed.
 - D.** No co-owner, other than the Developer, shall be entitled to vote at any meeting of the Association until he has presented evidence of ownership of a unit in the condominium project to the Association. No co-owner, other than the Developer, shall be entitled to vote prior to the first annual meeting of members held in

accordance with Paragraph 1.9. The vote of each co-owner may only be cast by the individual representative by such co-owner in the notice required in Subsection (E) below or by a proxy given by such individual representative. The Developer shall be entitled to vote for each unit which it owns.

- E.** If a unit is owned by more than one person, or is under lease, the person entitled to cast the vote for the unit and to receive all notices and other communications from the Association shall be designated by a notice signed by all the record owners of the unit and filed with the Secretary of the Association. Such notice shall state the name and address of the individual representative designated, the number or numbers of the condominium unit or units owned by the co-owner, and the name and address of each person, firm, corporation, partnership, association, trust or other entity who is the co-owner. Such notice shall be signed and dated by the co-owner. All notices shall be valid until revoked, until superseded by subsequent notices, or until a change occurs in the record ownership of the unit concerned. The Developer shall, at any meeting, be entitled to cast a vote on behalf of each unit it owns without submitting any proof of ownership.
- F.** There shall be an annual meeting of the members of the Association commencing with the First Annual Meeting held as provided in Paragraph 1.9. Other meetings may be provided for in the By-Laws of the Association. Notice of time, place and subject matter of all meetings as provided in the By-Laws of the Association, shall be given to each co-owner by the mailing of the same to each individual representative designated by a co-owner pursuant to Subsection (E) above.
- G.** The presence in person or by proxy of Fifty (50%) percent in number of the co-owners qualified to vote shall constitute a quorum for holding a meeting of the members of the Association, except for voting on questions specifically required herein to require a greater quorum. The written vote or any person furnished at or prior to any duly called meeting at which meeting said person is not otherwise present in person or by proxy shall be counted in determining the presence of a quorum with respect to the question upon which the vote is cast.
- H.** Votes may be cast in person or by proxy or by a writing duly signed by the designated voting representative not present at a given meeting in person or by proxy. In addition, any person entitled to vote in any meeting may also appear and vote via telecommunications equipment, as provided in the Association By-Laws. Proxies shall be valid for the particular meeting designated, and any adjournment thereof. Proxies and any written votes must be filed with the Secretary of the Association at or before the appointed time of each meeting of the members of the Association. Cumulative voting shall not be permitted.
- I.** At any meeting of the members at which a quorum is present, a majority, except where otherwise provided herein, shall consist of more than fifty (50%) percent of those qualified to vote and present in person or by proxy (or written vote, if applicable) at a given meeting of the members of the Association. Whenever provided specifically herein, a majority may be required to exceed the simple majority hereinabove set forth.
- J.** Other provisions as to voting by members, not inconsistent with the provisions herein contained, may be set forth in the Association By-Laws.

1.5 Association Books and Records. The Association shall keep detailed books of account showing all expenditures and receipts of administration which shall specify the maintenance and repair expenses of the common elements and any other expenses incurred by or on behalf of the Association and the co-owners. Such accounts and all other

Association records shall be open for inspection by the co-owners and their mortgagees upon reasonable notice and during reasonable working hours. The Association shall prepare and distribute to each co-owner at least annually a financial statement. The books of account shall be examined at least annually by a qualified independent Certified Public Accountant; provided, however, that such examination needs to be reviewed. Any institutional holder of a first mortgage lien on any unit in the condominium shall be entitled to receive a copy of the examination report within ninety (90) days following the end of the Association's fiscal year upon request therefore. The costs of any such examination and any accounting expenses shall be Expenses of Administration. The Association also shall maintain on file current copies of the Master Deed for the project, any amendments thereto and all other condominium documents and shall permit all co-owners, prospective purchasers and prospective mortgagees interested in the project to inspect the same during reasonable hours.

1.6 Board of Directors. The business, property and affairs of the Association shall be governed by a Board of Directors, all of whom shall serve without compensation and who must be members of the Association except for the first Board of Directors designated in the Articles of Incorporation of the Association and any successors thereto elected by the Developer pursuant to Paragraph 1.9. The number, terms of office, manner of election, removal and replacement, meetings, quorum and voting requirements, and other duties or provisions of or relating to directors, not inconsistent with the following, shall be provided by the Association By-Laws.

A. The Board of Directors shall have all powers and duties necessary for the administration of the affairs of the Association and may do all acts and things as are not prohibited by the condominium documents or required thereby to be exercised and done by the co-owners. In addition to the foregoing general duties imposed by these Condominium By-Laws, or any further duties which may be imposed by resolution of the members of the Association or which may be set forth in the Association By-Laws, the Board of Directors shall be responsible specifically for the following:

1. Management and administration of the affairs of and to maintain the condominium project, and all the general and limited common elements, property and easements thereof.
2. To levy and collect assessments from the members of the Association and to use the proceeds thereof for the purposes of the Association.
3. To carry insurance and collect and allocate the proceeds thereof.
4. To restore, repair or rebuild the common elements of the condominium, or any portion thereof, and any improvements located thereon, after the occurrence of a casualty, and to negotiate on behalf of the co-owners in connection with the taking of the condominium, or any portion thereof, by eminent domain.
5. To contract for and employ persons, firms, corporations or other agents to assist in the management, operation, maintenance and administration of the condominium project.
6. To acquire, maintain and improve, and to buy, operate, manage, sell, convey, assign, mortgage, grant easements, or lease any real or personal property (including any unit in the condominium and easements, rights-of-way and licenses) on behalf of the Association in furtherance or any of the

purposes of the Association, including (but without limitation) the purchase of a unit of the condominium for use by a resident manager.

7. To borrow money and issue evidences of indebtedness in furtherance of any and all of the purposes of the business of the Association, and to secure the same by mortgage, pledge, or other lien on property owned by the Association; provided, however, that any such action shall also be approved by affirmative vote of more than seventy-five (75%) percent or more of all of the members of the Association in number.
8. To make rules and regulations in accordance with Paragraph 9.5.
9. To establish such committees as it deems necessary, convenient or desirable and to appoint persons thereto for the purpose of implementing the administration of the condominium and to delegate to such committees any functions or responsibilities which are not by law or the condominium documents required to be performed by the Board.
10. To make rules and regulations and/or to enter into agreements with institutional lenders the purposes of which are to obtain mortgage financing for unit co-owners which is acceptable for purchase by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association and/or any other agency of the federal government or the State of Michigan.
11. To enforce the provisions of the Master Deed and Condominium By-Laws of the condominium, and the Articles of Incorporation and such By-Laws, rules and regulations of the Association as may hereafter be adopted, and to sue on behalf of the condominium or the members and to assert, defend or settle claims on behalf of the members with respect to the condominium.
12. To do anything required of or permitted by it as administrator of said condominium by the condominium Master Deed, the Condominium By-Laws or the Michigan Condominium Act, as amended.
13. To provide services to co-owners as set forth in the Master Deed, these Condominium By-Laws, and/or the corporate By-Laws.
14. In general, to enter into any kind of activity; to make and perform any contract and to exercise all powers necessary, incidental, or convenient to the administration, management, maintenance, repair, replacement and operation of the condominium and to the accomplishment of any of the purposes thereof not forbidden, and with all powers conferred upon non-profit corporation by the laws of the State of Michigan.

Provided, however, that, except as in the cases of licenses, leases or rental arrangements having a duration of one (1) year or less, neither the Board of Directors nor the Association shall, by act or omission, abandon, partition, subdivide, encumber, sell or transfer the common elements, or any of them, unless at least sixty-six and two-thirds (66-2/3%) percent of the first mortgagees [based upon one (1) vote for each mortgage owned] and sixty-six and two-thirds (66-2/3%) percent of the members have consented thereto. The Board of Directors may, however, grant easements for public utilities or other public purposes consistent with the

intended use of the common elements by the condominium, and no such grant shall be deemed a transfer for the purposes hereof.

- B.** The Board of Directors may employ for the Association a professional management agent, which may include the Developer or any person or entity related thereto, at reasonable compensation established by the Board to perform such duties and services as the Board shall authorize, including, but not limited to, the duties listed in Paragraph 1.6, Subsection (A), and the Board may delegate to such management agent any other duties or powers which are not by law or by the condominium documents required to be performed by or have the approval of the Board of Directors or the members of the Association. In no event shall the Board be authorized to enter into any contract with a professional management agent, or any other contract providing for services by the Developer, sponsor or builder, in which the maximum term is greater than three (3) years or which is not terminable by the Association upon ninety (90) days' written notice thereof to the other party. A service contract which exists between the Association of co-owners and the Developer or affiliates of the Developer or a management contract with the Developer or affiliates of the Developer is voidable by the Board of Directors of the Association of co-owners on the transitional control date or within ninety (90) days thereafter, with or without cause and on thirty (30) days notice at any time thereafter for cause. To the extent that any management contract extends beyond one (1) year after the transitional control date, the excess period under the contract may be voided by the Board of Directors of the Association of co-owners by notice to the management agent at least thirty (30) days before the expiration or the one (1) year.
- C.** All of the actions (including, without limitation, the adoption of these Condominium By-Laws and any rules and regulations for the corporation, and any undertakings or contracts entered into with others on behalf of the corporation) of the first Board of Directors of the Association named in its Articles of Incorporation or any successors thereto elected by the Developer before the First Annual Meeting of Members shall be binding upon the Association in the same manner as though such actions had been authorized by a Board of Directors duly elected by the members of the Association at the first or any subsequent annual meeting of members so long as such actions are within the scope of the powers and duties which may be exercised by any Board of Directors as provided in the condominium documents.

1.7 Association Officers. The Association By-Laws shall provide the designation, number, election, terms of office, duties, and removal or replacement of the officers of the Association.

1.8 Indemnification. Every director shall be indemnified by the Association against all expenses, including counsel fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him as a consequence of his being made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil or administrative by reason of his being or having been a director or officer of the Association, except in such cases wherein he is adjudged guilty of willful and wanton misconduct or gross negligence in the performance of his duties or adjudged to have not acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association and its members, and with respect to any criminal action or proceeding, he is adjudged to have had no reasonable cause to believe that his conduct was unlawful; provided that, if a director or officer claims reimbursement or indemnification hereunder based upon his settlement of a matter, he shall be indemnified only if the Board of Directors (with any director seeking reimbursement abstaining) approves such settlement and reimbursement as being in the best interest of the Association and, if a majority of the

members request it, such approval is based upon an opinion of independent counsel supporting the propriety of such indemnification and reimbursement. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights of such director or officer may have. The Board of Directors shall notify all members that it has approved an indemnification payment at least ten (10) days prior to making such payment.

1.9 Advisory Committee, Additional Co-Owner Directors, and First Annual Meeting.

A. An advisory committee of non-developer co-owners shall be established either one hundred twenty (120) days after conveyance of legal or equitable title to non-developer co-owners of thirty-three and one-third (33-1/3%) percent of the units that may be created, or one (1) year after the initial conveyance of legal or equitable title to a non-developer co-owner of a unit in the project, whichever occurs first. The advisory committee shall meet with the Condominium Project Board of Directors for the purpose of facilitating communication and aiding the transition of control to the Association of co-owners. The advisory committee shall cease to exist when a majority of the Board of Directors of the Association of co-owners is elected by non-developer co-owners.

B. Not later than one hundred twenty (120) days after the conveyance of legal or equitable title to non-developer co-owners of twenty-five (25%) percent of the units that may be created, at least one (1) director and not less than twenty-five (25%) percent of the Board of Directors of the Association shall be elected by non-developer co-owners. Not later than one hundred twenty (120) days after the conveyance of legal or equitable title to non-developer co-owners of fifty (50%) percent of the units that may be created, not less than thirty-three and one-third (33-1/3%) percent of the Board of Directors shall be elected by non-developer co-owners. Not later than one hundred twenty (120) days after the conveyance of legal or equitable title to non-developer co-owners of seventy-five (75%) percent of the units that may be created, AND before conveyance of ninety (90%) percent of such units, the non-developer co-owners shall elect all directors on the Board, except that the Developer shall have the right to designate at least one (1) director as long as the Developer owns and offers for sale at least ten (10%) percent of the units in the project or as long as ten (10%) percent of the units remain that may be created in the project.

Notwithstanding the formula provided above for the election of non-developer co-owners to the Board of Directors to the Association, fifty-four (54) months after the first conveyance of legal or equitable title to a non-developer co-owner of a unit in the project, if title to not less than seventy-five (75%) percent of the units that may be created has not been conveyed, the non-developer co-owners have the right to elect as provided in the condominium documents a number or members of the Board of Directors of the Association equal to the percentage of units they hold, and the Developer has the right to elect as provided in the condominium documents, a number of members of the Board equal to the percentage of units which are owned by the Developer. This election may increase, but shall not decrease, the minimum number of non-developer co-owners on the Board of Directors of the Association elected pursuant to the formula provided above.

In the event that the application of either of the above formulas shall result in the right of non-developer co-owners to elect a fractional number of members to the Board of Directors, then a fractional election right of 0.5 or greater shall be rounded to the nearest whole number, which number shall be the number of members of the Board that the non-developer co-owners have the right to elect. The application of this right to round fractional membership 0.5 or greater upward to the nearest whole number, shall not be applied in such a way as to eliminate the right

of the Developer to designate at least one member to the Board of Directors in the event the Developer owns and is offering for sale at least ten (10%) percent of the units in the project or as long as ten (10%) percent of the units remain that may be created in the project.

The election of the first non-developer co-owner to the Board of Directors to the Association pursuant to the formulas provided above shall constitute for the purposes of the condominium documents the first annual meeting of the Association.

Whenever the non-developer co-owners become entitled to elect one (1) or more additional directors pursuant to the above formula, the Board of Directors shall provide due notice of a meeting at which an election of all directors shall take place.

The Board of Directors elected pursuant to these provisions shall serve until the earlier of the next annual meeting of the Association or such time as it has been replaced in accordance with the provision of these Condominium By-Laws and the Association By-Laws.

ARTICLE 2. MANAGEMENT OF THE CONDOMINIUM AND GENERAL AND LIMITED COMMON ELEMENTS

THE ASSOCIATION SHALL ENTER INTO A CONTRACT FOR THE MANAGEMENT OF THE CONDOMINIUM PROPERTY AND FOR MAINTENANCE OF THE COMMON AREAS. The Initial Manager is an affiliate of the Developer.

Pursuant to the Management Contract, the Manager will be retained as exclusive manager of the Condominium. The term of the Management Contract shall commence on the date of the Contract and end one (1) year after control of the Condominium Association is turned over to Unit Owners other than the Developer, unless sooner terminated for the causes specified in the Contract.

Among the Manager's duties (which are to be performed on behalf of, and in some cases as agent for, the Association) are the following:

- A.** Collecting assessments and other charges due the Association from its members;
- B.** Maintaining and repairing the buildings, appurtenances and grounds of the Condominium property;
- C.** Taking such action as may be necessary to comply promptly with any and all orders and requirements affecting the Condominium property by any governmental agency having jurisdiction over it;
- D.** Entering into agreements on behalf of the Association for water, electricity, gas, telephone, vermin extermination, and all other necessary services;
- E.** Keeping in force such insurance coverage as is required by these Condominium Bylaws;
- F.** Preparing and submitting to the Association a proposed operating budget at least annually and at least thirty (30) days prior to the end of the Association's fiscal year;
- G.** Making payment from the funds of the Association for Association expenses;

- H.** Preparing for execution and filing by the Association, in conjunction with such personnel as may be employed by the Association, forms, reports and returns required by law in connection with unemployment insurance, workmen's compensation insurance, and the like, and such other forms, reports and returns as may relate to the operation of the Condominium property and the employment of personnel;
- I.** Maintaining a system of office records, books and accounts in accordance with acceptable accounting principles and practices;
- J.** Employing, supervising and discharging personnel, contractors and sub-contractors in order to maintain and operate the Condominium property;
- K.** Securing full compliance of the members of the Association with the By-Laws and Rules and Regulations;
- L.** Maintaining records of receipts, disbursements, and expenses (including the Manager's compensation), and charges and such other records as the Association may reasonably require;
- M.** Taking such other action as is reasonably necessary to fulfill the Association's obligation under the Declaration of Condominium, Articles of Incorporation and By-Laws of the Association and applicable law with respect to the maintenance, operation and management of the Condominium Property.
- N.** Managing and maintaining all Common Areas;
- O.** Taking legal action to enforce the Condominium Association's rights and furnishing, at least once each month, a list of all delinquent amounts on or about the 15th day of each month;
- P.** Taking action, after notice, to comply with governmental orders or requirements;
- Q.** Making utility service and other contracts and acquiring tools and equipment;
- R.** Operating the Common Areas and enforcing rules and regulations;
- S.** Preparing an annual budget not less than thirty (30) days before each fiscal year and submitting such budget and any wage rate recommendations to the Board;
- T.** Maintaining books and records and annual statements of income and expense;
- U.** Enforcing use restrictions;
- V.** Preparing disbursements of funds to pay salaries and costs and expenses;
- W.** Performing all other duties and obligations of the Condominium Association as set forth in these Bylaws or in the Master Deed.

Under the Management Contract, the Condominium Association shall pay all actual costs of operating and maintaining the Condominium Property and the Manager is to be paid by the Condominium Association net service fees to be determined by the Developer and the Manager, and which shall be part of each owner's regular assessment.

The applicable fees under the Management Contract are part of the Common Expenses of the Condominium that are included in the Assessments payable by Unit Owners. Fees for any renewal period shall be negotiated and agreed upon in writing.

There are currently no maintenance or service contracts having a non-cancelable term in excess of one year. The Association and Manager are empowered, however, at any time and from time to time, to enter into such maintenance and/or service contracts for valuable consideration and upon such terms and conditions as the Board of Directors shall approve without the consent of Unit Owners. If entered into, such maintenance and/or service contracts may be subject to cancellation by the Association and by Unit Owners upon 30 days' written notice of cancellation.

ARTICLE 3. ASSESSMENTS

- 3.1 Personal Property.** The Association shall be assessed as the person or entity in possession of any tangible personal property of the condominium owned or possessed in common by the co-owners, and personal property taxes based thereon shall be treated as Expenses of Administration.
- 3.2 Costs and Receipts in Common.** All costs incurred by the Association in satisfaction of any liability arising within, caused by, or connected with the common elements or the administration of the condominium project shall constitute Expenditures of Administration. All sums received as the proceeds of, or pursuant to, a policy of insurance securing the interest of the co-owners against liabilities or losses arising within, caused by, or connected with the common elements or the administration of the condominium project shall constitute receipts affecting the administration of the condominium project, within the meaning of Section 54(4) of the Act.
- 3.3 Expenses of Administration.** For the purposes of these Condominium By-Laws and as direction to the Board of Directors in determining assessments as provided herein, the term "Expenses of Administration" shall mean all items specifically defined as such in these Condominium By-Laws and all other common expenses. The common expenses shall consist, among other things, of such amounts as the Board of Directors may deem proper for the operation, management and maintenance of the condominium project to the extent of the powers and duties delegated to it hereunder, and in the Master Deed, and shall include, without limitation, amounts to be set aside for working capital reserve of the condominium, the cost of performing the Association's maintenance, repair and replacement responsibilities, management wages, fees and salaries, common area utilities, common area landscaping, maintenance and replacement, common area cleaning, supplies, snow removal, licenses and permits, banking, legal fees, accounting fees, insurance as required herein, and the creation and maintenance of an appropriate reserve fund.
- 3.4 Determination of Assessment.** Assessments shall be determined in accordance with the following provisions:
- A.** The Board of Directors of the Association shall establish an annual budget in advance for each fiscal year and such budget shall project all Expenses of Administration for the forthcoming year which may be required for the proper operation, management and maintenance of the condominium project, including a reasonable allowance for contingencies and reserves. An adequate reserve fund for maintenance, repairs and replacement of those common elements that must be replaced on a periodic basis must be established in the budget and must be funded by regular payments at such intervals as decided by the Association rather than by special assessments. At a minimum, the reserve fund shall be equal to ten (10%) percent of the Association's current annual budget on a noncumulative basis. THE

MINIMUM STANDARD REQUIRED BY THIS SECTION MAY PROVE TO BE INADEQUATE FOR THIS PARTICULAR PROJECT. The Association should carefully analyze the Project to determine if a greater amount should be set aside, or if additional reserve funds should be established for other purposes. Upon adoption of an annual budget by the Board of Directors, copies of said budget shall be delivered to each co-owner and the assessment for said year shall be established based upon said budget, although the delivery of a copy of the budget to each co-owner shall not affect the liability of any co-owner for any existing or future assessments. Should the Board of Directors, at any time determine, in the sole discretion of the Board of Directors,

1. That the assessments levied are or may prove to be insufficient to pay the costs of operation and management of the condominium,
2. To provide replacements of existing common elements,
3. To provide additions to the common elements not exceeding FIVE THOUSAND AND NO/100 (\$5,000.00) DOLLARS annually for the entire project, or
4. In the event of emergencies,

the Board of Directors shall have the authority to increase the general assessment or to levy such additional assessment or assessments as it shall deem to be necessary. The discretionary authority of the Board of Directors to levy assessments pursuant to this subsection shall rest solely with the Board of Directors for the benefit of the Association and the members thereof and will not be enforceable by any creditors of the Association or its members.

B. Special assessments, in addition, to those required in Paragraph 3.4 (A), may be made by the Board of Directors from time to time and approved by the co-owners as hereinafter provided to meet other needs or requirements of the Association, including, but not limited to:

1. Assessments for additions to the common elements of a cost exceeding FIVE THOUSAND DOLLARS (\$5,000.00) per year for the entire project;
2. Assessments to purchase a unit for use as a resident manager's unit; or
3. Assessments for any other appropriate purpose not elsewhere herein described.

Special assessments referred to in this subsection, [but not including those assessments referred to in Paragraph 3.4 (A), which shall be levied in the sole discretion of the Board of Directors] shall not be levied without the prior approval of sixty-six and two-thirds (66-2/3%) percent or more of all co-owners.

3.5 Specific Assessment Formula for Lawn Maintenance. The Developer shall be charged with negotiating a lawn maintenance contract for the entire project. All lawn area including the lawn area of all units will be mowed by the lawn service pursuant to specifications set by the Developer. The cost of lawn and landscaping maintenance in the general common elements shall be included in the ordinary monthly assessment. Owners of single family units shall be required to pay an additional fee for lawn and landscaping maintenance within the boundary of their unit.

3.6 Excess Assessments. Assessment of co-owners pursuant to the Association's annual budget and/or any increases of the general assessment pursuant to Paragraph 3.4.A which exceed the Association's expenses of administration and/or expenses listed in Paragraph 3.4.A shall at the end of the Association fiscal year be placed in the Association's working capital reserve account. Such excess assessments shall not be expended from the Association's working capital reserve account in lieu of special assessments levied pursuant to Paragraph 3.4 above without prior approval of sixty-six and 66/100 (66-2/3%) percent or more of the co-owners.

3.7 Level of Assessment and Method of Payment. All assessments levied against the co-owners to cover Expenses of Administration shall be apportioned among and paid by the co-owners in accordance with the percentage or value allocated to each unit in Article 5 of the Master Deed without increase or decrease for the existence of any rights to the use of limited common elements appurtenant to a unit. The initial annual assessments will be \$2,100.00 annually or \$175.00 per month for townhomes and \$2,400.00 annually or \$200.00 per month for single family homes, shall be payable by co-owners in equal installments on a monthly basis commencing with acceptance of a deed to a unit or with acquisition of fee simple title to a unit by any other means. The payment of an assessment shall be in default if such assessment, or any part thereof, is not paid to the Association in full on or before the due date for such payment. Assessments in default shall bear interest of 1.5% per month until paid in full. Each co-owner (whether one or more persons) shall be, and remain, personally liable for the payment of all assessments pertinent to his unit which may be levied while such co-owner is the owner thereof.

Any sums owed the Association by any co-owner may be assessed to and collected from the responsible co-owner as an addition to the regular assessment installment next coming due.

3.8 No Exemption from Assessment. No co-owner may exempt himself from liability for his contribution toward the Expenses of Administration by his or her waiver of the use or enjoyment of any of the common elements or by the abandonment of his or her unit.

3.9 Collection of Assessment. Sums assessed to a co-owner by the Association pursuant to this Article 3, which are unpaid constitute a lien upon the unit or units in the project owned by the co-owner at the time of the assessment. The priority of such liens on a co-owners unit or units shall be determined pursuant to Section 108 of the Act. The Association may enforce collection of delinquent assessments by a suit at law for a money judgment or by foreclosure of the statutory lien that secures payment of assessments. Each co-owner, and every other person who from time to time has any interest in the project, shall be deemed to have granted to the Association the unqualified right to elect to foreclose such lien by judicial action. The provisions of Michigan law pertaining to foreclosure of mortgages by judicial action, as the same may be amended from time to time, are incorporated herein by reference for the purposes of establishing the alternative procedures to be followed in lien foreclosure actions and the rights and obligations of the parties to such actions. Further, each co-owner and every other person who from time to time has any interest in the project, shall be deemed to have authorized and empowered the Association to pursue such legal or equitable remedies as may be authorized by statute, Master Deed, or the Condominium By-Laws to enforce and collect Association assessments. Each co-owner of a unit in the project acknowledges that at the time of acquiring title to such unit, he was notified of the provisions of this section and that he voluntarily, intelligently and knowingly waived notice of any proceedings brought by the Association to foreclose the lien for non-payment of assessments and a hearing on the same prior to the sale of the subject unit. Notwithstanding the foregoing, neither a judicial foreclosure action nor a suit at law for a money judgment shall be commenced, nor shall any notice of foreclosure be issued, until the expiration of ten (10) days after mailing, by first class mail, postage prepaid, addressed to the delinquent co-owner(s) at his or their last known address of a written notice that one

or more installments of the annual assessment levied against the pertinent unit is or are delinquent and that the Association may invoke any of its remedies hereunder if the default is not cured within ten (10) days after the date of mailing. Such written notice shall be accompanied by a written affidavit of an authorized representative of the Association that sets forth:

- A. The affiant's capacity to make the affidavit;
- B. The statutory and other authority for the lien;
- C. The amount outstanding (exclusive of interest, costs, attorney fees and future assessments);
- D. The legal description of the subject unit(s); and
- E. The name(s) of the co-owner(s) of record.

Such affidavit shall be recorded in the Office of the Register of Deeds in the county in which the project is located prior to the commencement of any foreclosure proceeding, but it need not have been recorded as of the date of mailing as aforesaid. If the delinquency is not cured within the ten (10) day period, the Association may take such remedial action as may be available to it hereunder or under Michigan law. The expenses incurred in collecting unpaid assessments, including interest, costs, fines, collection and late fees, actual attorney's fees (not limited to statutory fees) and advances for taxes or other liens paid by the Association to protect its lien, shall be chargeable to the co-owner in default and shall be secured by the lien on his unit. The co-owner of a unit subject to foreclosure for unpaid condominium assessments, and any purchaser, grantee, successor, or assignee of the co-owner's interest in the condominium unit, is liable for assessments by the Association chargeable to the condominium unit that become due before expiration of the period of redemption together with interest, advances made by the Association for taxes or other liens to protect its lien, costs, and attorney's fees incurred in their collection.

In the event of default by any co-owner in the payment of any installment of the annual assessment levied against his unit, the Association shall have the right to declare all unpaid installments of the annual assessment for the pertinent fiscal year immediately due and payable.

The Association also may discontinue the furnishing of any utilities, or other services to a co-owner in default upon thirty (30) days written notice to such co-owner of its intention to do so. A co-owner in default shall not be entitled to utilize any of the general common elements of the project and shall not be entitled to vote at any meeting of the Association so long as such default continues.

In a judicial foreclosure action, a receiver may be appointed to collect a reasonable rental for the unit from the co-owner thereof or any persons claiming under him.

- 3.10 Liability of Mortgagee for Delinquent Assessments in the Event of Foreclosure.** Pursuant to Section 58 of the Act and notwithstanding any other provisions of the condominium documents, if the mortgagee of a first mortgage of record or other purchaser of a condominium unit obtains title to the condominium unit as a result of foreclosure or by deed (or assignment) in lieu of foreclosure, such first mortgagee, person, its successors and assigns, is not liable for the assessments by the Association chargeable to the unit which became due prior to the acquisition of title to the unit by such person, except for assessments that have priority over the first mortgage under Section 108 of the Act.

3.11 Developer's Liability for Assessments. The Developer of the condominium, even though a member of the Association, shall not be responsible for payment of the monthly Association assessment for any site condominium or unit condominium. Developer, however, shall pay a proportionate share of the Association's current Expenses of Administration as defined in Paragraph 3.3, which benefit the total condominium project actually incurred based upon the ratio of units owned by Developer as shown on the Condominium Subdivision Plan, Exhibit D to the Master Deed, at the time the expense is incurred to the total number of units in the condominium. A sum equivalent to ten (10%) percent of the amount owed by the Developer pursuant to the preceding sentence will be added to such amount in order that the minimum ten (10%) percent reserve requirement is met.

In no event shall the Developer be responsible for payment of any regular or special assessments for deferred maintenance, reserves for replacement, capital improvements, etc. except as to those units owned by the Developer on which a completed unit is located. For the purpose of this Paragraph, a "completed residence" shall mean a residence with respect to which a Certificate of Occupancy or its equivalent has been issued by the City of New Buffalo.

In such case, the Developer shall be liable from the date of issuance of the Certificate of Occupancy or its equivalent for the above-referenced deferred maintenance, reserves for replacement, capital improvements or other special assessments.

In no event shall the Developer be liable for any assessment levied in whole or in part to purchase a unit from the Developer or to finance litigation or other claims against the Developer, any cost of investigating and preparing such litigation or claim or any similar related costs.

3.12 Real Estate Taxes. Property taxes shall be assessed against the individual condominium units identified as units in the Condominium Subdivision Plan and not on the total property of the project or any other part of the project, except for the year in which the condominium project was established subsequent to tax day, i.e. December 31 of the prior calendar year. Property taxes which become a lien against the property in the year subsequent to the establishment of the condominium project shall be Expenses of Administration of the project paid by the co-owners as assessments. In such case, each unit shall be assessed a percentage of the total bill for such taxes upon the percentage of value allocated to such unit in the Master Deed; and the owners thereof shall reimburse the Association for such unit share of the tax bill within ten (10) days after they have been tendered a statement therefor.

Special assessments and property taxes in any year in which the project was an established condominium project on tax day shall be assessed against the individual condominium units, notwithstanding any subsequent vacation of the condominium project.

3.13 Construction Liens. The following provision shall control the circumstances under which construction liens (mechanics liens) may be applied against the condominium or any unit thereof:

A. Except as provided below a construction lien for work performed on or beneath a condominium unit or upon a limited common element appurtenant to that unit, namely the frontage area, including that portion of a driveway constructed thereon may attach only to such unit. A construction lien for work performed in constructing a residence or other structure within a unit may attached only to the residence or structure constructed.

- B.** A construction lien for work authorized by the Developer or principal contractor and performed upon the common elements may attach only to units owned by the Developer at the time of recording of the statement of account and lien.
- C.** A construction lien for work authorized by the Association may attach to each unit only to the proportionate extent that the co-owner of the unit is required to contribute to the Expenses of Administration as provided by the condominium documents.
- D.** A construction lien may not arise or attach to a unit for work performed on the common elements not contracted by the Developer or the Association.

If a co-owner is advised or otherwise learns of a purported construction lien contrary to the foregoing he shall immediately notify the Board of Directors. Upon learning of the purported contractor's lien, the Board shall take appropriate measures to remove any cloud on the title of units improperly affected thereby.

3.14 Statement of Unpaid Assessments.

- A.** Pursuant to Section 111 of the Act, the purchaser of any condominium unit is entitled to a written statement from the Association setting forth the amount of unpaid assessments, whether regular or special, against the seller or grantor. A written statement shall be furnished by the Association upon written request accompanied by a copy of the executed purchase agreement pursuant to which the purchaser or grantee holds right to acquire the unit.

In the event the purchaser shall request such written statement, the purchaser shall not be liable for, nor is the condominium unit conveyed or granted subject to a lien for any unpaid assessments against the seller or grantor in excess of the amount set forth in the written statement.

Unless the purchaser or grantee requests such a written statement from the Association at least five (5) days before closing of the sale, the purchaser or grantee shall be liable for any unpaid assessments against the condominium unit together with interest, costs, and attorney fees incurred in the collection thereof.

- B.** Upon the sale or conveyance of a condominium unit, all unpaid assessments against a condominium unit shall be paid out of the sale price or by the purchaser in preference over any other assessments or charges of whatever nature, except the following:
 - 1.** Amounts due the State, or any subdivision thereof, or any municipality for taxes and special assessments paid on the condominium unit; and
 - 2.** Payment due on their first mortgage having priority thereto.

ARTICLE 4. ARBITRATION

- 4.1 Submission to Arbitration.** Disputes, claims, or grievances arising out of or relating to the interpretation or the application of the condominium documents or the management agreement, if any; or any disputes, claims or grievances arising among or between co-owners, or between co-owners and the Association, or between the Association and the management company, shall upon the election and written notice of at least one of the parties to any such disputes, claims or grievances and written notice to the Association, be submitted to arbitration and the parties thereto shall accept the arbitrator's decision as final and binding. The Commercial Arbitration Rules of the American Arbitration Association as amended and in effect from time to time hereafter shall be applicable to any such arbitration.

The arbitrator may be either an attorney acceptable to both parties or a panel of three (3) individuals, at least one of whom shall be an attorney. The panel shall be composed of one individual appointed by the co-owner and one individual appointed by the Board of Directors of the Association. These two (2) individuals will then promptly agree on the third member of the panel. No co-owner may appoint himself or a member of this household to the panel, nor may a co-owner serve on behalf of the Board.

Cost of the arbitration shall be borne equally by the parties to the arbitration.

- 4.2 Legal Remedy Not Foreclosed.** If arbitration is not noticed and elected pursuant to paragraph 4.1 above, no co-owner or the Association shall be precluded from petitioning the courts to resolve any such disputes, claims or grievances.
- 4.3 Effect of Election.** Election to submit any such dispute, claim or grievance to arbitration shall preclude such parties from litigating such dispute, claim or grievance in the courts.

ARTICLE 5. INSURANCE

- 5.1 Insurance Coverage.** The Association shall at a minimum carry fire and extended coverage on the common elements, vandalism and malicious mischief and liability insurance, and workmen's compensation insurance, if applicable, pertinent to the ownership, use and maintenance of the common elements of the condominium project, and such insurance (other than title insurance) as the Association may deem to be reasonable and necessary. Insurance carried by the Association shall be carried and administered in accordance with the following provisions:

A. All such insurance shall be purchased by the Association for the benefit of the Association, and the co-owners and their mortgagees, as their interests may appear, and provision shall be made for the issuance of certificates of mortgagee endorsements to the mortgagees of co-owners.

B. Each co-owner shall be responsible for obtaining insurance coverage at the co-owner's expense for the interior of the co-owner's unit, including interior walls, pipes, wires, conduit, ducts, wall coverings, floor coverings, appliances, fixtures, sliders, windows, and screens or any other items located within a unit. Each co-owner is responsible for obtaining insurance for the personal property located within the co-owner's unit or elsewhere in the condominium, for personal liability for occurrences within the co-owner's unit or on limited common elements appurtenant to the unit, and for expenses to cover alternate living arrangements if a casualty causes temporary loss of the unit. The Association shall have no responsibility for obtaining such insurance. The Association and all co-owners shall use their best efforts to see that all property and liability insurance carried by the Association or

any co-owner shall contain appropriate provisions for the insurer to waive its right of subrogation regarding any claims against any co-owner or the Association.

All such insurance will be carried by each co-owner in an amount equal to the maximum insurable replacement value excluding foundation excavation costs and evidenced to the Association in a manner acceptable to the Association, and shall name the Association as an additional insured. In the event of the failure of a co-owner to obtain such insurance, the Association may obtain such insurance on behalf of such co-owner and the premiums therefore will constitute a lien against the co-owner's unit which may be collected from the co-owner in the same manner that the Association assessments are collected in accordance with paragraph 3.9.

The Association and all co-owners shall use their best efforts to see that all property and liability insurance carried by the Association or any co-owner shall contain appropriate provisions whereby the insurer waives its right of subrogation as to any claims against any co-owner or the Association. Subject to the provisions of paragraph 6.4, the Association and each co-owner hereby waive, each as to the other, any right of recovery for losses recovered by insurance. The liability of carriers issuing insurance obtained by the Association shall not, unless otherwise required by law, be affected or diminished on account of any additional insurance carried by any co-owner and vice versa.

- C. All common elements of the condominium project, including the exterior of the townhome buildings shall be insured against fire and other perils covered by a standard extended coverage endorsement, in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, as determined annually by the Board of Directors of the Association.
- D. Public liability insurance shall be carried in such limits as the Board may from time to time determine appropriate, and shall cover the Association, each member, director, and officer thereof and any managing agent.
- E. All premiums upon insurance purchased by the Association pursuant to these Condominium By-Laws shall be Expenses of Administration.
- F. Proceeds of all insurance policies owned by the Association shall be received by the Association, held in a separate account and distributed to the Association, and the co-owners and their mortgagees as their interests may appear; provided, however, whenever repair or reconstruction of the condominium shall be required as provided in Article 5, the proceeds of any insurance received by the Association as a result of any loss requiring repair or reconstruction shall be applied for such insurance proceeds be used for any purpose other than for repair, replacement or reconstruction of the project unless all of the institutional holders of first mortgages on units and all co-owners, in the project have given their prior written approval.
- G. Insurance carried by the Association shall, to the extent possible, provide for cross coverage of claims by one insured against another.

5.2 Appointment of the Association. Each co-owner, by ownership of a unit in the condominium project, shall be deemed to appoint the Association as his true and lawful attorney-in-fact to act in connection with all matters concerning the maintenance of fire and extended coverage, vandalism and malicious mischief, liability insurance and workmen's compensation insurance, if applicable, pertinent to the condominium project, his unit and the common elements appurtenant thereto with such insurer as may, from time to time, provide such insurance for the condominium project. Without limitation on the generality of the foregoing, the Association as said attorney shall have full power and authority to

purchase and maintain such insurance, to collect and remit premiums therefore, to collect proceeds and to distribute the same to the Association, the co-owners and respective mortgagees, as their interests may appear (subject always to the condominium documents), to execute releases of liability and to execute all documents and to do all things on behalf of such co-owner and the condominium as shall be necessary or convenient to the accomplishment of the foregoing.

ARTICLE 6. RECONSTRUCTION OR REPAIR

6.1 Reconstruction and Repair. If any part of the condominium property shall be damaged, the determination of whether or not it shall be reconstructed or repaired shall be made in the following manner:

- A.** If a common element or the adjoining frontage area of a unit is damaged, such property shall be rebuilt or repaired if a residence located upon any unit in the project is tenable, unless the members unanimously vote that the condominium shall be terminated, and each holder of a first mortgage lien on any condominium unit has given its prior written approval of such termination.
- B.** If the condominium is so damaged that no residence located upon any unit is tenable, and if each holder of a first mortgage lien on any unit in the condominium has given its prior written approval to the termination of the condominium, the damaged property shall not be rebuilt and the condominium shall be terminated, unless seventy-five (75%) percent or more of the members agree to reconstruct by vote or in writing within ninety (90) days after the destruction.

6.2 Manner of Construction and Repair. Any such reconstruction or repair shall be substantially in accordance with the Master Deed and the plans and specifications for the condominium project, and for a residence or improvement within any unit substantially in accordance with the plans and specifications previously approved by the Association or the Developer for that unit, to a condition as comparable as possible to the condition existing prior to damage unless sixty-six and two-thirds (66-2/3%) percent of the co-owners in number and value and sixty-six and two-thirds (66-2/3%) percent of the first mortgagees agreed otherwise by vote or in writing.

6.3 Notification of Mortgagees. In the event of substantial damage or destruction of any unit or any part of the common elements of the project, the Association shall promptly notify each holder of a first mortgage lien of the units in the project.

In addition, in the event any mortgage in the condominium is held by the Federal Home Loan Mortgage Corporation (hereinafter referred to as "FHLMC") then the Association shall give FHLMC written notice at such address as it may, from time to time, direct of any loss to or taking of the common elements of the condominium if the loss or taking exceeds TEN THOUSAND AND NO/100 (\$10,000.00) DOLLARS in amount or damage to a condominium unit covered by a mortgage purchased in whole or in part by FHLMC exceeds ONE THOUSAND AND NO/100 (\$1,000.00) DOLLARS.

6.4 Co-Owner Repair Responsibility. Each co-owner shall be responsible for the prompt reconstruction, repair and maintenance of all improvements and structures on or within his unit except as provided in Article 6, Paragraph 6.1. All such work shall be performed in accordance with current fire and building code standards and these condominium documents. Each co-owner shall be responsible for the reconstruction, repair or maintenance of the dwelling, other structures and improvements, landscaping, walks, driveways, parking areas and utilities (including, but not limited to, water, telephone, electric and cable television) located within each co-owner's unit and the frontage area adjoining his unit. Any such work performed in these areas must be approved by the Association. If

any other portion of a unit is covered by insurance held by the Association for the benefit of the co-owner, the co-owner shall be entitled to receive the proceeds of insurance relative thereto and if there is a mortgagee endorsement, the proceeds shall be payable to the co-owner and the mortgagee jointly, without any change to the obligations set forth in this paragraph 6.4.

- 6.5 Association Repair Responsibility.** The Association shall be responsible for the reconstruction, repair and maintenance of the common elements and any incidental damage to a unit caused by such common elements or the reconstruction, repair or maintenance thereof. The Association shall also be responsible to repair damage to the exterior (roof, exterior walls, trim, and foundation of the townhome buildings), and such repairs shall be an expense of administration of the Association. Immediately after a casualty causing damage to property for which the Association has the responsibility of maintenance, repair and reconstruction, the Association shall obtain reliable and detailed estimates of the cost to replace the damaged property in a condition as good as that existing before the damage.
- 6.6 Insurance Proceeds.** Any insurance proceeds received, whether by the Association or co-owner shall be for the construction or repairs required by these Condominium By-Laws. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction or repair required to be performed by the Association, or if at any time during such reconstruction or repair, or upon completion of such reconstruction or repair, the funds for the payment of the costs thereof are insufficient, assessments shall be made against all co-owners for the cost of reconstruction or repair of the damaged property in sufficient amounts to provide funds to paid the estimated or actual cost of repair. Such assessments shall be levied in the same manner as the regular monthly assessments as set forth in Article 3.
- 6.7 Time Limit, Repair.** If the damage within the condominium impairs the appearance of the condominium, the Association or the co-owner responsible for the reconstruction or repair of the damage will proceed with the repair, reconstruction or replacement of the damaged item without delay, and will complete such repair, reconstruction or replacement within six (6) months after the date of the occurrence which caused the damage.
- 6.8 The Association or the Developer shall have no duty to replace or repair, nor any liability for damage or destruction to any and all personal property located within a unit no matter what the cause or the damage or destruction.**

ARTICLE 7. EMINENT DOMAIN

- 7.1 Authority of Association to Negotiate.** The Association, acting through its Board of Directors, may negotiate on behalf of all co-owners for any taking of common elements.

Any negotiated settlement involving the taking of a project general common element shall be subject to approval by sixty-six and two-thirds (66-2/3%) percent or more of co-owners of the project in number and by value; and such approval shall then be binding upon all co-owners in the project.

- 7.2 Allocation of Award.**

A. Taking of Entire Unit. In the event of any taking of an entire unit by eminent domain, the award for such taking shall be paid to the owner of such unit and the mortgagee thereof, as their interests may appear. After acceptance of such award by the owner and his mortgagee, they shall be divested of all interest in the condominium project. The undivided interest in the common elements belonging to

the co-owner whose unit has been taken shall hereinafter appertain to the remaining units including those restored or reconstructed under the provisions of this Article 6.

- B.** Taking of Partial Unit. In the event of a partial taking of any unit, any condemnation award shall be paid by the condemning authority to the Association on behalf of the co-owner of the unit and his mortgagee, as their interest may appear. If part of the residence located within the unit is taken, the co-owner shall, if practical, in using the award, rebuild the same to the extent necessary to make it habitable or usable. If it is not practical to rebuild the residence within the boundaries of the unit, the entire undivided interest the common elements appertaining to that unit shall henceforth appertain to the remaining condominium units, being allocated to them in proportion to their respective undivided interest in the common elements. The remaining portion of the condominium unit shall thenceforth be a common element.

7.3 Taking of Common Elements. If there is a taking of any portion of the condominium other than any unit, the proceeds thereof shall be paid to the Association, and shall be used as follows:

- A.** An affirmative vote of more than sixty-six and two-thirds (66-2/3%) percent of the co-owners in number and in value shall determine whether to rebuild, repair or replace that portion of the common elements so taken or take such other action as they deem appropriate; or
- B.** If no such affirmative vote is obtained, the condemnation proceeds shall be remitted to the co-owners and their mortgagees, as their interests may appear, in proportion to their respective percentages of value as set forth in Article 5 of the Master Deed.

7.4 Continuation of Project. In the event the condominium project continues after taking by eminent domain, then the remaining portion of the condominium project shall be re-surveyed and the Master Deed amended accordingly, and, if any unit shall have been taken, then Article 5 the Master Deed shall also be amended to reflect such taking and to proportionately readjust the percentages of value of the remaining co-owners based upon the continuing value of the condominium of one hundred (100%) percent. Such amendment may be effected by an officer of the Association duly authorized by the Board of Directors without the necessity of execution or specific approval thereof by any co-owner, but only with the prior written approval of all holders of first mortgage liens on individual units in the project.

7.5 Notification of Mortgagees. In the event any unit in the condominium, or any portion thereof, or the common elements or any portion thereof, is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the Association promptly shall so notify each institutional holder of a first mortgage lien on any of the units in the condominium.

In addition, in the event any mortgage in the condominium is held by the Federal Home Loan Mortgage Corporation, hereinafter referred to as "FHLMC", then the Association shall give FHLMC written notice at such address as it may, from time to time, direct of any loss to or taking of the common elements of the condominium if the loss or taking exceeds TEN THOUSAND AND NO/100 (\$10,000.00) DOLLARS in amount or damage to a condominium unit covered by a mortgage purchased in whole or in part by FHLMC exceeds ONE THOUSAND AND NO/100 (\$1,000.00) DOLLARS.

- 7.6 Reassignment of Common Elements.** If the taking of a portion of a condominium unit makes it impracticable to rebuild the partially taken unit to make it useable, the entire undivided interest in the common elements appertaining to that condominium unit shall henceforth appertain to the remaining condominium units, being allocated to them in a proportion of their undivided respective individual interest in the common elements. The remaining portion of the condominium unit shall thenceforth be a common element.
- 7.7 Future Expenses of Administration.** Votes in the Association of co-owners and liability for future Expenses of Administration appertaining to a condominium unit taken or partially taken (as provided in paragraph 7.6) by eminent domain shall thenceforth appertain to the remaining condominium units being allocated to them in proportion to their relative voting strength in the Association.

ARTICLE 8. PRIORITY OF MORTGAGEES

Nothing contained in the condominium documents shall be construed to give a condominium unit owner, or any other party, priority over any rights of first mortgagees of condominium units pursuant to their mortgages in the case of a distribution to condominium unit owners of insurance proceeds or condemnation awards for losses to or a taking of condominium units and/or common elements.

ARTICLE 9. RESTRICTIONS

- 9.1 Establishment of Restrictions.** In order to maintain, perpetuate, and preserve for future generations the amenities, resources, aesthetics, and value of the project, it is the feeling of the Developer that it is necessary to promulgate appropriate restrictions which reflect a philosophy directed at these goals. In so doing, the Developer has established the within restrictions.

Further, other restrictions have been established in order to provide for the congenial occupancy of the condominium, and for the protection of the value of the units, the use of the condominium property shall be subject to the limitations set forth below. Reasonable accommodations in the rules, policies and practices of the Condominium will be made as required by the Federal Fair Housing Act to accommodate handicapped persons.

- 9.2 Persons Subject to Restrictions.** All present and future co-owners, tenants, and any other persons or occupants using the facilities of the Condominium shall be subject to compliance with the Act, the Master Deed, these Condominium By-Laws, the Association Articles of Incorporation, the Association By-Laws, and the Rules and Regulations of the Association.
- 9.3 Enforcement.** A breach of any provision of the restrictions set forth in paragraph 9.4 shall constitute a breach of these Condominium By-Laws and may be enforced pursuant to the terms of these By-Laws.
- 9.4 Declaration of Restrictions.**

- A. General Restrictions on Usage.** The following are general guidelines with regard to the usage of units in the Condominium:

1. Except for units owned by the Developer or used for displaying model homes, all units shall be used for their intended purpose: single family residential, and the common elements shall be used for purposes consistent with such uses.
2. Although all units are to be used only for single-family residential purposes, nonetheless home occupations will be considered part of a

single-family residential use if, and only if, the home occupation is conducted entirely within the residence and participated in solely by members of the immediate family residing in the residence, which use is clearly incidental and secondary to the use of the residence for dwelling purposes and does not change the character thereof. To qualify as a home occupation, there must be (i) no sign or display that indicates from the exterior that the residence is being utilized in whole or in part for any purpose other than that of a dwelling; (ii) no commodities sold within the unit; (iii) no person employed other than a member of the immediate family residing within the unit; and (iv) no mechanical or electrical equipment used, other than personal computers and other office-type equipment.

3. The co-owner may lease his unit for the same purposes set forth in Subparagraph (1); provided that written disclosure of such lease transaction is submitted to the Board of Directors of the Association in the same manner as specified in Article 11. The terms of all leases, occupancy agreements and occupancy arrangements shall incorporate, or be deemed to incorporate, and be subject to all of the provisions of the condominium documents. The Developer may lease any number of units in the condominium in its discretion.
4. No immoral, improper, unlawful or offensive activity shall be carried on in any unit or upon the common elements, limited or general, nor shall anything be done which may be or become an annoyance or a nuisance to the co-owners of the condominium, nor shall any unreasonably noisy activity be carried on in any unit or on the common elements. No co-owner shall do or permit anything to be done or keep or permit to be kept in his unit or on the common elements anything that will increase the rate of insurance on the condominium without the written approval of the Association and each co-owner shall pay to the Association the increased cost of insurance premiums resulting from any such activity or the maintenance of any such condition, if in fact such condition is approved by the Association.
5. Except for household dogs, cats, small cage birds, and fish, kept in reasonable numbers, an owner may not keep, raise, or breed animals, livestock or poultry of any kind on any unit. Such care and restraint shall be taken such that a co-owner's pet shall not be obnoxious or offensive on account of noise, odor or unsanitary conditions. No animal may be permitted to run loose at any time upon the common elements and any animal shall at all times be attended by some responsible person while on the common elements, limited or general. No savage or dangerous animal shall be kept or allowed onto the premises at any time, whether or not the Association has given its permission therefor. Savage and dangerous animals include, but are not limited to, the following: pit-bull terriers, doberman pinchers and other attack dogs. No animal shall be left unattended outside a structure as approved by the Developer or the Board of Directors. No animal shall be allowed on the common elements unless it is under leash and any waste products eliminated by a co-owner's animal shall be promptly and efficiently cleaned up by the co-owner. The disposal of such waste products shall be in an appropriate sanitary facility. No animal shall be allowed to interfere with any unit owner's reasonable use and enjoyment of its unit or the common elements. No animals may be allowed into the Association pool house or recreation room at any time. The Association may charge all co-owners maintaining animals a reasonable additional assessment to be collected in the manner provided

in Article 3 in the event that the Association determines such assessment necessary to defray the maintenance cost to the Association of accommodating animals within the condominium. The Association may, without liability to the owner thereof, remove or cause to be removed any animal from the condominium which it determines to be in violation of the restrictions imposed by this Section. The Association shall have the right to require that any pets be registered with it and may adopt such additional reasonable rules and regulations with respect to animals as it may deem proper. Any person who causes an animal to be brought or kept in the condominium shall indemnify and hold harmless the Association for any damages, loss or liability which might accrue to the Association as a result of the presence of such animal in the condominium, regardless of whether the animal's presence is permitted.

6. No trash, garbage or rubbish of any kind shall be kept within any unit, except in an enclosed wildlife-proof trash bin. The location of such trash bin shall be subject to the approval of the Board of Directors. All trash bins and sanitary containers shall be kept in a reasonably clean and sanitary condition. All sanitary containers shall be secured in a trash bin, except as necessary to allow for trash collection. Placement of trash containers in the frontage area for collection shall not exceed a period of twenty-four (24) hours.

The Manager shall have the responsibility for contracting with a trash disposal company for trash pick up within the Condominium Project (if applicable) There shall be only one disposal company at any point and time collecting trash from within the Condominium Project.

OPEN BURNING OF BRUSH, LEAVES, GRASS AND/OR TRASH SHALL BE PROHIBITED.

7. In general, activities shall not be carried on, nor conditions maintained by a co-owner, either in his unit or upon the common elements, which spoil the appearance of the condominium premises or endanger the environmental or cultural resources of the condominium project.
8. No noxious, offensive or unlawful activity shall be carried on upon the Project, nor shall anything be done thereon which may be or may become an annoyance or nuisance to other Owners.
9. No item of equipment, furniture or any other large movable item shall be kept within any unit outside a building, except lawn furniture, provided the same are kept in a neat and good condition. All other items, such as lawn mowers, and snow mobiles, shall be stored in a garage or other allowable storage facilities.
10. Walkways, yards, landscaped areas, driveways, roads, parking areas, and porches shall not be used for purposes other than for which they are reasonably and obviously intended. No bicycles, vehicles, or chairs may be left unattended on or about the common elements.
11. Use of any recreational facilities in the condominium may be limited to such times and in such manner as the Association shall determine by duly adopted regulations.

12. Parking on the roads constituting general common elements is prohibited except as provided by duly adopted rules and regulations of the Association.
13. No house trailers, commercial vehicles, boat trailers, boats, camping vehicles, camping trailers, snowmobiles, snowmobile trailers, ATV's or vehicles other than automobiles or vehicles used primarily for general personal transportation may be parked or stored on the condominium premises unless parked in a garage with the door completely closed, or unless present for temporary loading or unloading purposes, unless approved in writing by the Board of Directors. No inoperable vehicles of any type may be brought or stored on the condominium premises, either temporarily or permanently, unless within a garage with the door completely closed. Commercial vehicles and trucks shall not be parked in or about the condominium (except as above provided) unless while making deliveries or pickups in the normal course of business or for construction purposes. No commercial vehicles of any nature will be parked overnight on the condominium premises except in a completely closed garage without the prior written consent of the Developer. Any truck over 3/4 ton and any vehicle with a company name or other advertising or commercial designation will be considered a commercial vehicle. No vehicle may be parked overnight on any road or on any frontage area, except as provided by duly adopted rules and regulations of the Association. Each co-owner shall park his car in the garage or driveway or parking area appurtenant to or contained in the co-owner's unit.
14. No co-owner shall use, or permit the use by any occupant, agent, employee, invitee, guest or member of his family of any firearms, air rifles, pellet guns, B-B guns, bows and arrows or other similar dangerous weapons, projectiles or devices anywhere on or about the condominium premises.
15. No sign of any kind shall be displayed to the public view on the Project, except only one sign of not more than one (1) square foot used to indicate the name of the resident or one sign of not more than five (5) square feet advertising the property for sale or for rent (in locations and in accordance with applicable design standards of any sign used by a builder to advertise the company during the construction and sales period. No sign of any kind shall be permitted to be placed on the outside walls of the unit or on any fences within the Common Areas.
16. No unsightly condition shall be maintained upon any balconies, porches, or decks, and only furniture and equipment consistent with ordinary balcony, porch, or deck use shall be permitted to remain there during seasons when such areas are reasonably in use, and no further or equipment of any kind shall be stored in such areas during seasons when they are not reasonably in use.
17. No co-owner shall take any action on or with respect to his unit that violates any federal, state or local statute, regulation, rule or ordinance.
18. Co-owners shall refrain from any actions from within the unit(s) which would detract from or interfere with any other member's use or enjoyment or their respective units or the common elements.

- 19.** The co-owners shall be required to use only those fertilizers, pesticides and other plant enhancement products approved by the Association within unit boundaries and on the Project limited and general common elements.

In this regard, the Association shall have the authority to hire an environmental consultant to provide the Association with an approved list of fertilizers, pesticides and other plant enhancement products. The Association shall make this list and/or updates to this list available to the co-owner on an annual basis prior to March 1 of each calendar year.

- 20.** Temporary Structures. No structure of a temporary character, or trailer, tent, mobile home or recreational vehicle, shall be permitted on the Project at any time or used at any time as a residence, either temporarily or permanently, except by the Developer and its affiliates during construction or the sales period. No gas tank, gas container or gas cylinder shall be permitted to be placed on or about the outside of any Unit or on or about any ancillary building, except for one (1) gas cylinder (not to exceed 20 lbs.) connected to a barbecue grill.

- 21.** Garbage and Trash Disposal. No garbage, refuse, trash or rubbish shall be deposited except as permitted by the Association. The requirements from time to time of the applicable government authority or other company or association for disposal or collection of waste shall be complied with. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. Such containers may not be placed out for collection sooner than 24 hours prior to scheduled collection and must be removed within 12 hours of collection.

- 22.** Fences. No fence, wall or other structure shall be erected in the front yard, back yard, or side yard setback areas, except as originally installed by Developer or its affiliates, and except any approved by the Association.

- 23.** Members' Permittees. No Lot or Unit shall be occupied by any person other than the Owner(s) thereof and the applicable Members' Permittees and in no event other than as a residence, except as set forth in paragraph 9.4(A)(2). For purposes of this Declaration, a Member's Permittees shall be the following persons and such persons' families, provided that the Owner or other permitted occupant must reside with his/her family: (i) an individual Owner(s), (ii) an officer, director, stockholder or employee of a corporate owner, (iii) a partner in or employee of a partnership owner, (iv) a fiduciary or beneficiary of an ownership in trust, or (v) occupants named or described in a lease or sublease, but only if approved in accordance with these Bylaws. Under no circumstances may more than one family reside in a Unit at one time. The Board of Directors shall have the power to authorize occupancy of a Unit by persons in addition to those set forth above. The provisions of this Section shall not be applicable to Units used by the Developer for model apartments, sales offices, management services or otherwise.

As used herein, "family" or words of similar import shall be deemed to include a spouse, children, parents, brothers, sisters, grandchildren and other persons permanently cohabiting the Unit as or together with the Owner or permitted occupant thereof. As used herein, "guest" or words of similar import shall include only those persons who have a principal residence other than the Unit. Unless otherwise determined by the Board of Directors of the Association, a person(s) occupying a Unit for more than

one (1) month shall not be deemed a guest but, rather, shall be deemed a lessee for purposes of these Bylaws (regardless of whether a lease exists or rent is paid) and shall be subject to the provisions of these Bylaws, which apply to leases and lessees.

24. Applicability to Developer. The provisions of this Article 9 shall not apply to Developer.

B. General Construction Restrictions. The following are the general construction restrictions regarding units within the project:

1. Co-owners shall be allowed to erect or construct small satellite dishes and/or small television antennas. Such devices shall be erected or constructed behind the single-family residence located on the unit or on the rooftop decks of the townhome units. Further, the placement and configuration of such devices shall be subject to any reasonable rules or regulations adopted by the Association.
2. No co-owner shall damage, modify or make attachments to the common elements. However, landscaping within the frontage area adjacent to a unit shall be allowed subject to the provisions of Subsection (3), below.
3. No co-owner shall perform any landscaping or plant any trees, shrubs, or flowers or place any ornamental materials upon the condominium unit or frontage area without the approval of the Developer prior to the initial meeting of the Association and afterwards by the Board of Directors. The Developer and/or the Board of Directors shall be supplied with a landscaping plan for approval prior to any landscaping. No co-owner shall remove any trees or existing landscaping from any unit or any part of the condominium project without the approval of the Developer prior to the initial meeting of the Association and afterwards by the Board of Directors. However, a unit co-owner may, from time to time, change "annual" plantings within a "flower bed" or "planting bed."
4. No building, structure or other improvements, including, without limitations, any dwelling, fence, storage shed, or other permanent or temporary building or structure, shall be constructed within the perimeters of a unit or elsewhere on the condominium project (primarily the frontage area), nor shall any exterior addition, modification or structural alteration, including, without limitation, painting the exterior (except repainting or restaining with a substantially similar color) and adding exterior lights, awnings, doors and shutters, be made to any existing building, structure or improvement, unless plans and specifications therefore, containing such detail as the Association may reasonably require, have first been approved in writing by the Board of Directors. Construction of any building or other improvements must also receive any necessary approvals from the local public authority. The Board of Directors shall have the right to refuse to approve any plans or specifications, color and/or material applications, grading or landscaping plans, or building location plans which are not suitable or desirable in its opinion for aesthetic or other reasons; and in passing upon such plans and specifications it shall have the right to take into consideration the suitability of the proposed structure, improvement or modification, the site upon which it is proposed to be constructed, the proposed location within the unit, the location of structures within adjoining units and the degree of harmony thereof with the condominium as a whole.

The purpose of this section is to assure the continued maintenance of the condominium as a beautiful and harmonious residential development, and shall be binding upon both the Association and upon all co-owners. Prior to the sale of all the condominium units by the Developer, the Developer may construct dwellings or other improvements upon the condominium project without the necessity of prior consent from the Association, the Board of Directors, subject only to the express limitations contained in the condominium documents; provided, however, that all such dwellings and improvements shall, in the reasonable judgment of the Developer or its architect, be architecturally compatible with the structures and improvements constructed elsewhere on the condominium project.

5. Except as otherwise provided, all single-family residences constructed within the project shall be constructed in compliance with all applicable zoning and building codes in force at the time of construction of said single-family residence.
6. No more than one (1) single-family residence shall be placed on a unit as shown on the Condominium Subdivision Plan.
7. Construction of in-ground or above-ground pools within the boundaries of a unit shall be prohibited. Except, however, portable above-ground swimming pools, of the type commonly used for small children, shall be allowed so long as they do not exceed thirty (30) square feet in area and two (2) feet in height.

Hot tubs shall be permitted behind the single-family residence located within the unit, or on the roof top decks of the townhome units. The location of such hot tub on the single-family units shall be subject to the review and approval of the Board of Directors, which may require appropriate screening of the hot tub.

8. Detached storage sheds and other out buildings shall not be allowed within the boundaries of a unit. However, a gazebo or similar recreational structure may be allowed, subject to the approval of the Board of Directors.
9. Playground structures of the type typically used by elementary school age children shall be allowed within the boundaries of the unit. However, the style, designs, materials, and location of such play ground devices, shall be subject to the review and approval of the Board of Directors.
10. **NO FUEL STORAGE TANKS SHALL BE INSTALLED WITHIN THE BOUNDARIES OF A UNIT, THE FRONTAGE AREA AND/OR ANY OTHER PROJECT COMMON ELEMENT.**
11. No changes will be made in the grading of any areas to alter the surface run off drainage pattern for the Condominium Project without the prior written consent of the Developer, the Association, and the Berrien County Drain Commissioner or after the transitional control date.
12. No single-family residence which is incomplete as to the exterior or basement shall be used for a temporary or permanent residence.
13. No motorcycles, dirt bikes, motor scooters, snow mobiles, jet skis, ATV's, or other such recreational vehicles shall be operated on the condominium premises, except for the purpose of ingress and egress, in which case the

vehicles shall utilize only the paved surface of the general common element roadway.

14. All exterior lighting systems, including lights mounted on the single-family residence or appurtenances thereto constructed within the unit, shall be aesthetically pleasing and shall not produce undue glare directed toward adjacent units or the general common element roadway.
15. A co-owner may make improvements or modifications to the co-owner's Condominium Unit, including improvements or modifications to common elements and to the route from the public way to the co-owner's Condominium Unit, at his or her expense, if the purpose of the improvement or modification is to facilitate access to or movement within the Unit for persons with disabilities who reside in or regularly visit the Unit, or to alleviate conditions that could be hazardous to persons with disabilities who reside in or regularly visit the Unit. Such improvements shall be made in compliance with Section 47(a) of the Act.

C. Specific Construction Restrictions. The following are the specific construction restrictions on the type of improvements which may be constructed within the units.

1. No residence shall be constructed with a fully enclosed first floor area of less than 1500 square feet of living space above ground, exclusive of garage area.
2. No single-family residence shall be erected exceeding the height restrictions of the City of New Buffalo Zoning Ordinance.
3. No modular, log homes, or A-frame homes shall be allowed.
4. Concrete block or poured walls are acceptable for foundations. Brick and field stone shall be acceptable for above grade foundation walls or porch piers. Aluminum or vinyl siding shall be acceptable for exterior walls. Wood sided homes are not required to include brick or stone. Soffit and fascia may be either wood or aluminum, and all gutters and downspouts shall be aluminum.
5. All utilities serving the improvements located within a unit shall be underground from the main lines to said improvements.
6. All driveways constructed within a unit shall be either asphalt, paving bricks, concrete, or other hard improved surface as approved by the Developer or the Association.
7. Initial painting or decorating of the exterior of the units must be approved by the Developer. Any repainting or redecorating of the exterior of the units must be approved by the Developer or the Association, whichever the case may be.

D. Time Limitation Restrictions. The following restrictions shall apply with regard to time limitations of construction.

1. Construction of the single-family residence on a unit within the Condominium Project must be commenced within twenty-four (24) months from the date the initial owner, other than the Developer, acquires legal or

equitable title to such unit, unless such twenty-four (24) month period is extended in writing by the Developer.

In the event a co-owner shall not commence construction within such twenty-four (24) month period, the Developer, its successors and assigns shall, and is hereby granted, an Option to Purchase said unit from such co-owner at fair market value.

Such Option shall be exercised by written notice to the co-owner within forty-five (45) days of the lapse of said twenty-four (24) month period. Upon exercise, such sale shall be closed within thirty (30) days of notice. Such Option shall be exercised in the sole discretion of the Developer, its successors or assigns, at the terms and conditions of such sale shall be cash at closing.

For the purpose of this Option, the fair market value of the real estate shall be determined as follows:

- a. Based upon an appraisal of a real estate appraiser mutually agreed to between the Developer and the unit co-owner(s); or in the event the Developer and the co-owner shall be unable to mutually agree upon one real estate appraiser as follows:
 - (1) The Developer shall appoint a real estate appraiser;
 - (2) The co-owner shall appoint a real estate appraiser;
 - (3) The two appraisers so appointed shall appoint a third appraiser.
 - (4) Each appraiser shall then proceed to independently appraise the unit. The fair market value of the unit shall be the average of the two appraisals which are closest in value.
 - (5) The Developer shall pay the cost of the Developer's real estate appraiser, the co-owner shall pay the cost of the co-owner's real estate appraiser, and the Developer and co-owner shall split 50-50 the cost of the third real estate appraiser or the mutually agreed upon real estate appraiser.
2. Once commenced, construction of a single-family residence must be completed on the exterior within two hundred ten (210) days from the date construction is commenced, and within said period, the soil within such unit and the frontage area appurtenant to such unit must be completely stabilized by grading and seeding or sodding of a lawn or other ground cover growth so as to prevent any soil blow area or soil erosion; provided this provision shall neither prevent nor prohibit anyone from maintaining open areas for the planting of trees, shrubbery or flower garden, but any such open area shall be controlled so as to prevent blowing or erosion of soil therefrom.

9.5 Promulgation of Rules and Regulations. Reasonable regulations consistent with the Act, the Master Deed and these Condominium By-Laws, concerning the use of the common elements may be made and amended from time to time by any Board of Directors of the

Association, including the First Board of Directors (or its successors elected by the Developer prior to the First Annual Meeting of the entire Association, held as provided in Paragraph 1.9. Copies of all such regulations and amendments thereto shall be furnished to all co-owners and shall become effective thirty (30) days after mailing or delivery thereof to the designated voting representative of each co-owner. Any such amendment may be revoked at any time by the affirmative vote of sixty-six and two-thirds (66-2/3%) percent or more of all co-owners in number and in value.

- 9.6 Variance.** A co-owner may be allowed a variance from the strict application of the restrictions set forth in Paragraph 9.4 (A), (B) or (C), above, and the rules and regulations promulgated pursuant to Paragraph 9.5 above, or a decision of the Developer or the Board of Directors as required by Paragraph 9.4 (A), (B) or (C), above.

Such variance shall be granted upon the co-owner obtaining 66 2/3% votes from Association co-owners in favor of the grant of such variance.

In voting for the grant or denial of a co-owner's variance request, the units adjacent to the unit requesting the variance shall have two votes each and all other units (including the unit requesting the variance) shall have one vote each.

In addition to any variance granted by the Association co-owners, the co-owner may be required to obtain a variance from a particular provision of the zoning or building codes of the City of New Buffalo, Berrien County, Michigan.

- 9.7 Application of Restrictions to Developers.** None of the restrictions contained in this Article 9 shall apply to the commercial activities or signs or billboards, if any, of the Developer and its duly authorized agents, representatives, and employees, and residential builders who receive an assignment of rights from the Developer during the development and sales period, or of the Association in furtherance of its powers and purposes set forth herein and in its Articles of Incorporation and By-Laws as the same may be amended from time to time. For the purposes of this Section, the development and sales period shall be deemed to continue so long as the Developer or a residential builder who has received an assignment of rights from the Developer, owns any unit which he offers for sale. Until all units in the entire condominium project are sold by the Developer or a residential builder, the Developer or residential builder shall have the right to maintain a sales office, a business office, a construction office, model units, storage areas, reasonable parking incident to the foregoing and such access to, from and over the project as may be reasonable to enable development and sale of the entire project by the Developer or residential builder. The Developer shall pay or be responsible to require a residential builder to pay all costs related to the Condominium Units or common elements while owned by the Developer and to restore the facilities to habitable status upon termination of use.

ARTICLE 10. MAINTENANCE AND REPAIR

- 10.1 Association Responsibility.** The Association shall maintain and repair the general common elements and the limited common elements, except to the extent expressly provided to the contrary in the Master Deed. The Association shall also maintain the exterior of the townhome buildings. The cost thereof shall be charged to all the co-owners as common expenses, unless necessitated by the negligence, misuse or neglect of a co-owner, in which case such expenses shall be charged to such co-owner. The Association shall also maintain roads, driveways, utilities, water and sanitary sewer lines and facilities located within the common elements to the point of contact with a unit.

10.2 Co-Owner Responsibility. Each co-owner shall maintain his unit and any limited common elements appurtenant thereto for which he has maintenance responsibility in a safe, clean and sanitary condition. Each co-owner shall also use due care to avoid damaging any of the common elements including, but not limited to, the telephone, water, gas, plumbing, electrical or other utility conduits and systems and any other elements in any unit which are appurtenant to or which may affect any other unit. The Association shall have the right, but not the obligation, to cause any maintenance and repair to be made with respect to the unit, after first giving the co-owner seven (7) days prior written notice, except in the case of an emergency, in which event no prior written notice shall be required. Any amounts so incurred by the Association shall constitute assessments which shall be paid to the Association in the manner provided in Article 2 above and the failure to any co-owner to pay such assessments shall permit the Association to exercise the rights and remedies provided for in Article 2. Each co-owner shall be responsible for damages or costs to the Association resulting from negligent damage to or misuse of any of the common elements by him, or his family, guests, agents or invitees, unless such damages or costs are covered by insurance carried by the Association in which case there shall be no such responsibility (unless reimbursement to the Association is excluded by virtue of a deductible provision, in which case the responsible co-owner shall bear the expense to the extent of the deductible amount). If reimbursement to the Association is excluded by virtue of a deductible provision, the responsible co-owner shall bear the expense to the extent of the deductible amount, anything else in these Condominium By-Laws to the contrary notwithstanding. Any costs or damages to the Association that are herein or elsewhere in the condominium documents assigned to the individual co-owner may be assessed to and collected from the responsible co-owner in the manner provided for regular assignments in Article 2.

Each co-owner shall be individually responsible for the maintenance, repair and replacement of all improvements and structures on or within his unit, including all interior walls, windows, window walls, sliding glass doors, screens, garage doors and front entry doors to each structure, and all personal property located within the unit of any type, regardless of the cause of such maintenance, repair and replacement, and in no event shall the Association be liable therefor or for the decoration, maintenance, repair or replacement of any portion of any such structure or personal property; provided, however, that no construction, replacement, repair or decoration of any structure shall be undertaken by a co-owner without the express written approval of the Association or the Board of Directors for such a purpose.

10.3 Association Access. The Association or its duly authorized agents shall have access to each unit and any limited common elements appurtenant thereto from time to time, during reasonable working hours, upon notice to the co-owner thereof, as may be necessary for the maintenance, repair or replacement of any of the common elements. The Association or its agent shall also have access to each unit and any limited common elements appurtenant thereto at all times without notice as may be necessary to make emergency repairs to prevent damage to the common elements or to another unit. It shall be the responsibility of each co-owner to provide means of access, and if the co-owner fails to provide such access, the Association may gain access in such manner as may be reasonable under the circumstances and shall not be liable to such co-owner for any necessary damage to his unit and any limited common elements appurtenant thereto caused thereby or for repair or replacement of any doors or windows damaged in gaining such access.

ARTICLE 11. RENTALS AND LEASES

- 11.1 Right to Lease Unit.** A co-owner of a unit(s) in the condominium project may rent such unit(s) at any time. Neither a co-owner or the Developer shall lease less than an entire unit in the project.
- 11.2 Notice to Association.** A co-owner desiring to rent or lease a condominium unit shall disclose that fact in writing to the Association at least ten (10) days before presenting a lease form to a potential lessee, and at the time of such notice shall supply the Association with a copy of the exact lease form for its review of such lease's compliance with the condominium documents. The Board shall advise the member of any deficiency in the lease form and the member shall correct such deficiencies as directed by the Board before presenting a copy of the lease to the tenant.
- 11.3 Contents of Lease Agreements.** Tenants or non-co-owner occupants shall comply with all of the conditions of the condominium documents of the condominium project and all leases and rental agreements shall so state.
- 11.4 Remedies for Tenant's Non-Compliance.** If the Association determines that the tenant or non-co-owner occupant has failed to comply with the conditions of the condominium documents, the Association shall take the following action:
- A.** The Association shall notify the co-owner by certified mail advising of the alleged violation by tenant.
 - B.** The co-owner shall have fifteen (15) days after receipt of such notice to investigate and correct the alleged breach by the tenant or advise the Association that a violation has not occurred.
 - C.** If after fifteen (15) days the Association believes that the alleged breach is not cured or may be repeated, it may institute on its behalf or derivatively by the co-owners on behalf of the Association, if it is under the control of the Developer, an action for both eviction against the tenant or non-co-owner and simultaneously for money damages against the co-owner and tenant or non-co-owner occupant for breach of the condominium documents. The relief set forth in this section may be by summary proceeding. The Association may hold both the tenant and the co-owner liable for any damages caused by the co-owner or tenant in connection with the condominium unit.
- 11.5 Co-Owner Arrearage and Right of Set-Off.** When a co-owner is in arrearage to the Association for assessments, the Association may give written notice of the arrearage to a tenant occupying a co-owner's condominium unit under a lease or rental agreement and the tenant, after receiving the notice shall deduct from rental payments due the co-owner the arrearage and future assessments as they fall due and pay them to the Association. The deductions shall not be a breach of the rental agreement or lease by the tenant. If the tenant, after being notified, fails or refuses to remit rent otherwise due the co-owner to the Association co-owners, then the Association of co-owners may do the following:
- A.** Issue a statutory notice to quit for non-payment of rent to the tenant and shall have the right to enforce that notice in summary proceedings; or
 - B.** Initiate proceedings pursuant to Section 112 (4)(b) of the Act.

ARTICLE 12. TRANSFER OF UNIT

- 12.1 Acceptance of Condominium Documents.** No co-owner may transfer or dispose of his unit or any interest therein in any manner, except by mortgage, unless said co-owner shall deliver unto the Association a written statement executed by the transferee (with the transferee's signature notarized) evidencing the transferee's acknowledgement that they have received and reviewed the Condominium Documents and agreement to abide by the covenants and duties set forth therein.

ARTICLE 13. MORTGAGES

- 13.1 Notice of Mortgage.** Any co-owner who mortgages his unit shall notify the Association of the name and address of his mortgagee, and shall file a conformed copy of the note and mortgage with the Association, which shall maintain the information in a book entitled "Mortgages of Units." If the Association does not receive such notice, it shall be relieved of any duty to provide the mortgagee any notice required by the Master Deed or these Condominium By-Laws.
- 13.2 Notice of Default.** The Association shall give to the holder of any first mortgagee covering any unit in the project written notification of any default in the performance of the obligations of the co-owner of such unit that is not cured within sixty (60) days, if such mortgagee has, in writing, requested the Association to record such defaults to it.
- 13.3 Notice of Insurance.** The Association shall notify each mortgagee appearing in said book of the name of each company insuring the condominium against fire, perils covered by extended coverage, and vandalism and malicious mischief and the amounts of such coverage.
- 13.4 Notice of Meetings.** Upon request submitted to the Association, any institutional holder of a first mortgage lien on any unit in the condominium shall be entitled to receive written notification of every meeting of the members of the Association and to designate a representative to attend such meetings.
- 13.5 Acquisition of Title by First Mortgagee.** Any first mortgagee who obtains title to a unit pursuant to the remedies provided in the mortgage, or by deed in lieu of foreclosure, shall be liable for such unit's unpaid assessments which accrue prior to the acquisition of title by such mortgagee.

ARTICLE 14. AMENDMENTS

- 14.1 Proposal.** Amendments to these Condominium By-Laws may be proposed by the Board of Directors of the Association acting upon the vote of the majority of the directors or by thirty-three and one-third (33-1/3%) percent or more in number of the members or by instrument in writing signed by them.
- 14.2 Meeting to be Held.** Upon any such amendment being proposed, a meeting for consideration of the same shall be duly called in accordance with the provisions of the Association By-Laws.

- 14.3 Vote Required.** These Condominium By-Laws may be amended by the Association at any regular annual meeting or a special meeting called for such purpose, by an affirmative vote of not less than sixty-six and two-thirds (66-2/3%) percent of the co-owners in number and value and sixty-six and two-thirds (66-2/3%) percent of all mortgagees at a regular or special meeting called for such purpose, except that the method or formula used to determine the percentage of value of units in the condominium project and any provisions relating to the ability of terms under which a co-owner may rent a unit may not be modified or amended without the consent of each affected member and mortgagee. For the purpose of such voting each co-owner will get one (1) vote for each unit owned, including as to the Developer all units created by the Master Deed but not yet conveyed.
- 14.4 Amendment Prior to First Annual Meeting.** The Board of Directors may enact amendments to these Condominium By-Laws without the approval of any member or mortgagee, provided that such amendment shall not materially alter or change the rights of a member or mortgagee.
- 14.5 Effective Date.** Any amendment to these Condominium By-Laws (but not the Association By-Laws) shall become effective upon the recording of such amendment in the Office of the Register of Deeds in the county where the condominium is located.
- 14.6 Copies to be Distributed.** A copy of each amendment to the Condominium By-Laws shall be furnished to every member of the Association after adoption.

ARTICLE 15. COMPLIANCE

The Association of co-owners and all present or future co-owners, tenants, future tenants, or any other persons acquiring an interest in or using the facilities of the project in any manner are subject to and shall comply with the Act, as amended, the Master Deed, these Condominium By-Laws, Articles of Incorporation of the Association, the By-Laws of the Association and the Rules and Regulations adopted by the Association. The mere acquisition, occupancy or rental of any unit or an interest therein or the utilization of or entry upon the condominium premises shall signify that the condominium documents are accepted and ratified. In the event the condominium documents conflict with the provisions of the Act, the Act shall govern.

Failure to comply with any of the terms of the Master Deed, these Condominium By-Laws; or the Articles of Incorporation, By-Laws or duly adopted Rules and Regulations of the Association, shall be grounds for relief, which may include, without limiting the same, an action to recover sums due for such damages, injunctive relief, and any other remedy which may be appropriate to the nature of the breach. Failure of the Association to enforce any right, provision, covenant or conditions which may be granted by the Master Deed, these Condominium By-Laws; the Articles of Incorporation, By-Laws or duly adopted Rules and Regulations of the Association, shall not constitute a waiver of the right of the Association to force such right, provision, covenant or condition in the future.

ARTICLE 16. DEFINITIONS

All terms used herein shall have the same meaning as set forth in the Master Deed to which these By-Laws are attached as an Exhibit or as set forth in the Act, to wit: Act 59 of the Public Acts of 1978, as amended.

ARTICLE 17. REASSIGNMENT OF COMMON ELEMENTS

- 17.1 Limited Common Elements.** A limited common element of the project may be reassigned upon written application of the co-owners concerned to the president of the Association or to such other person or persons as may be designated by the Association Board of Directors. This application shall be reviewed to determine whether or not such reassignment of the limited common element will affect co-owners other than the co-

owners making the application. To the extent such reassignment of a limited common element shall not affect the rights of co-owners other than the co-owners making said application, an Amendment to the Master Deed of the project shall be prepared and executed reassigning the rights and obligations with respect to the common element involved. Such Amendment shall be delivered to the co-owners of the condominium units concerned upon payment by them of all reasonable costs for the preparation and recording of the Amendment to the Master Deed.

To the extent such application for reassignment of a limited common element does effect co-owners in a project other than the co-owners making the application, it shall be necessary to obtain the consent, in writing, of all affected co-owners prior to the reassignment of the limited common element. If such consent is secured, an Amendment to Master Deed shall be prepared and executed reassigning the rights and obligations with respect to the common element involved. The Amendment shall be delivered to the co-owners of the condominium units concerned upon payment by them of all reasonable costs for the preparation and recording of the Amendment to the Master Deed.

- 17.2 General Common Elements Assigned as Limited Common Elements.** A general common element of the project shall not be assigned as limited common element except upon the consent of eighty (80%) percent or more of co-owners.

ARTICLE 18. CO-OWNER DEFAULT

- 18.1 Relief Available.** Any default by a co-owner shall entitle the Association or another co-owner or co-owners to the following relief:

- A.** Failure to comply with any of the terms or provisions of the condominium documents or the Act shall be grounds for relief, which may include without intending to limit the same, an action to recover sums due for damages, injunctive relief, foreclosure of lien (if default in payment of assessment) or any combination thereof, and such relief may be sought by the Association, or, if appropriate, by an aggrieved co-owner or co-owners.
- B.** In any proceeding arising because of an alleged default by any co-owner, the Association, if successful, shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees, (not limited to statutory fees) as may be determined by the Court. In no event shall any co-owner be entitled to recover costs and attorneys' fees (other than statutory fees) from the Association.
- C.** The violation of any of the provisions of the condominium documents or the Act shall also give the Association or its duly authorized agents the right, in addition to the rights set forth above, to enter upon the common elements, limited or general, or into any unit, where reasonably necessary, and summarily remove and abate, at the expense of the co-owner in violation, any structure, thing or condition existing or maintained contrary to the provisions of the condominium documents or the Act.
- D.** The violation of any of the provisions of the condominium documents or the Act by any co-owner shall be grounds for assessment by the Association, acting through its duly constituted Board of Directors, of monetary fines for such violations. No fine may be assessed unless Rules and Regulations establishing such fine have first been duly adopted by the Board of Directors of the Association and notice thereof given to all co-owners. Thereafter, fines may be assessed only upon a finding by the Board that the violation has occurred after notice to the offending co-owner as prescribed in said paragraph 3.9, and an opportunity for such co-owner to appear before the Board no less than seven (7) days from the date of the notice and offer evidence in defense of the alleged violation. All fines duly assessed may

be collected in the same manner as provided in paragraph 3.9. No fine shall be levied for the first violation, and the fines for succeeding violations shall be in such amounts as determined by the Board of Directors in their duly adopted Rules and Regulations.

- 18.2 Failure to Enforce.** The failure of the Association or of any co-owner to enforce any right, provision, covenant or condition which may be granted by the condominium documents shall not constitute a waiver of the right of the Association or of any such co-owner to enforce such right, provisions, covenant or condition in the future.
- 18.3 Rights Cumulative.** All rights, remedies and privileges granted to the Association or any co-owner or co-owners pursuant to any terms, provisions, covenants or conditions of the aforesaid condominium documents shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute in election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.
- 18.4 Hearing.** Prior to the imposition of any fine or other penalty hereunder, the offending unit owner shall be given a reasonable opportunity to appear before the Board of Directors and be heard. Following any such hearing the Board shall prepare a written decision and place it in the permanent records of the Association.

ARTICLE 19. SEVERABILITY

In the event that any of the terms, provisions, or covenants of these Condominium By-Laws or the condominium documents are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify or impair in any manner whatsoever any of the other terms, provisions or covenant of such documents or the remaining portions of any terms, provisions or covenants held to be partially invalid or unenforceable.

ARTICLE 20. CONFLICTING PROVISIONS

In the event of a conflict between the provisions of the Act (or other laws of the State of Michigan) and any condominium document, the Act (or other laws of the State or Michigan) shall govern; in the event of any conflict between the provisions of any one or more condominium documents, the following order of priority shall prevail and the provisions of the condominium document having the highest priority shall govern:

- A.** The Master Deed, including the Condominium Subdivision Plan;
- B.** These Condominium By-Laws.
- C.** The Articles of Incorporation of the Association.

**LAKE MICHIGAN VIEW TOWNHOMES &
COTTAGES, LLC, a Michigan limited liability
company**

**a/k/a
Lake Michigan View at Diamond Point, a
Residential Site Condominium Project**

**Diamond Point Condominium Association,
Inc., a Michigan non-for-profit corporation**