

EXHIBIT E

(By-Laws)

BY-LAWS OF  
THE LOFTS AT WETHERINGTON CONDOMINIUM  
UNIT OWNERS' ASSOCIATION, INC.

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## ENABLING CLAUSE

These By-Laws are adopted simultaneously with the execution of a certain Declaration of Condominium Ownership of The Lofts at Wetherington Condominium ("Declaration") pursuant to Chapter 5311 of the Ohio Revised Code. The purpose is to provide for the government of the condominium property by The Lofts at Wetherington Condominium Unit Owners' Association, Inc. in the manner provided by the Declaration and by these By-Laws. All present and future owners or tenants, their employees and mortgagees, or any person who might use the facilities of the condominium property in any manner shall be subject to the covenants, provisions and regulations contained in the Declaration and these By-Laws, and shall be subject to any restriction, condition or regulation hereinafter adopted by the Board of Trustees of the Association.

The Declaration is incorporated herein by reference, and all of the covenants, rights, restrictions and liabilities therein contained shall apply to and govern the interpretation of these By-Laws.

The Association hereby approves and adopts all of the rights, remedies, powers and authorities granted to it under said Declaration.

## ARTICLE I NAME AND LOCATION

The Association shall be an Ohio corporation not for profit, and shall be called "The Lofts at Wetherington Condominium Unit Owners' Association, Inc." hereinafter referred to as the "Association." The principal office of the Association shall be located within Butler County, Ohio.

## ARTICLE II DEFINITIONS

Except as may be specifically defined in these By-Laws, all capitalized words and phrases used herein shall have the same meanings as are given to such words and phrases in the "Definitions" section or elsewhere, in the Declaration, as the same may be amended from time to time.

ARTICLE III  
MEMBERSHIP AND APPORTIONMENT OF VOTING RIGHTS

Section 1. Membership. Membership in the Association is limited to Unit Owners. Every Unit Owner shall be a "Member" of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Ownership of a Garage Unit shall not affect a Unit Owner's status as a Member of the Association and shall neither increase nor decrease such Unit Owner's voting rights or power. Membership shall be appurtenant to and may not be separated from ownership of any Unit which is subject to assessment by the Association. Ownership of such Unit shall be the sole qualification for membership. The Declarant shall be a member of the Association as long as it retains title to any Unit.

Section 2. Suspension of Membership. At any time a Member shall be in default in the payment of any annual or special assessment levied by the Association for a period of thirty (30) or more days, the voting rights of such Member may be suspended by the Board of Trustees (as hereinafter defined) until such assessment has been paid. Such rights of a Member may also be suspended for violation of any rules and regulations established by the Board of Trustees governing the use of the Common Areas and Facilities, all as more particularly set forth herein.

Section 3. Apportionment of Voting Rights. The Association shall have one class of voting membership and all voting rights and the exercise thereof shall be apportioned as follows; and not in accordance with ORC Section 5311.22(A): Each Unit Owner shall be entitled to one vote for each Unit owned in fee simple on any question for which the vote of Unit Owners is permitted or required. Fiduciaries and minors who are owners of record of a Unit or Units may vote their respective interests as Unit Owners. If two or more persons, whether fiduciaries, tenants in common, or otherwise, own an undivided interest in a Unit, each may exercise such proportion of the voting power of the Unit which is equivalent to his proportionate interest in the Unit, but in no event shall more than one vote be cast for any one Unit.

Section 4. Control by Declarant. The Declarant may appoint and remove members of the Board of Trustees and officers of the Association, and exercise powers and responsibilities otherwise assigned by law or by the Declaration to the Association, for such period as provided in Article VI of the Declaration and these By-Laws. Except as provided in Article VI, Section 1(c) of these By-Laws, voting rights of the Members of the Association shall be exercised by the Declarant or its representatives, and not by the Members, until control of the Association is turned over to the Members as provided in Article VI, Section 1(d) of these By-Laws.

**ARTICLE IV**  
**MEETINGS OF MEMBERS**

Section 1. Annual Meetings. The annual meeting of Members of the Association for the election of Members to the Board of Trustees, and for the transaction of such other business as may properly be brought before such meeting, shall be held during the first calendar quarter of each year hereafter at such place in Butler County, Ohio and on a date and at an hour as may be designated from time to time by the Board of Trustees.

Section 2. Special Meetings.

(a) Special meetings of the Members may be called by the President of the Association, or by the Board of Trustees, or upon written request of the Members who are entitled to vote one-half (1/2) of all the votes of the entire membership.

(b) A special meeting of the Association shall be held no later than the date on which Units to which twenty-five percent (25%) of the undivided interests in the Common Areas appertain have been sold and conveyed by Declarant. At such meeting, the Unit Owners other than Declarant shall elect one (1) member to the Board of Trustees. The Declarant shall determine which of the three initial Board members shall be replaced by the Board member elected by the Unit Owners.

Section 3. Notice of Meetings. Written notice of each special or annual meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by personal delivery or mailing a copy of such notice, postage prepaid, not less than ten (10) nor more than sixty (60) days before such meeting to each Member entitled to notice of the meeting, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting and, in the case of a special meeting, the purpose of the meeting.

Section 4. Waiver of Notice. Notice of the time, place and purpose of any meeting of Members may be waived in writing by any Members, either before or after the holding of such meeting. The attendance of any Member at any such meeting, without protesting, prior to or at the commencement of the meeting, the lack of proper notice, shall be deemed to be a waiver by such Member of notice of such meeting.

Section 5. Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, one-half (1/2) of the votes of the entire membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-laws. If, however,

such quorum shall not be present or represented at any meeting, the Members entitled to vote at the meeting shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 6. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary at or prior to the meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Unit.

Section 7. Voting Power. Except as otherwise provided in the Declaration or these By-Laws, or by applicable law, a majority of the voting power of Unit Owners present, either in person or by proxy, and voting on any matter that may be determined by the Unit Owners at a duly called and noticed meeting at which a quorum exists shall be sufficient to determine the matter.

Section 8. Order of Business at Regular Meetings. The order of business at all regular meetings of the members of the Association shall be as follows:

- (a) Calling the meeting to order;
- (b) Proof of notice of meeting or waiver of notice;
- (c) Reading of minutes of preceding meeting;
- (d) Reports of officers;
- (e) Reports of committees;
- (f) Election of Board members;
- (g) Unfinished or old business;
- (h) New business;
- (i) Adjournment.

Section 9. Actions Without a Meeting. Except in the case of a removal of a Board member, any action which may be taken at a meeting of the Association may be taken without a meeting with the approval of, and in a writing or writings signed by, members having the percentage of voting power required to take such action if it had been taken at a meeting. Such writings shall be filed with the Secretary of the Association. A copy of such action, when so approved, shall be mailed or delivered promptly to all members.

**ARTICLE V**  
**PROPERTY RIGHTS; RIGHTS OF ENJOYMENT**

Each Member shall be entitled to the use and enjoyment of the Common Areas as provided in the Declaration. Any Member may delegate his rights of enjoyment of the Common Areas and Facilities to the members of his family or his tenants who reside in his Unit. Such Member shall notify the Secretary in writing of the name of any such delegee. The rights and privileges of such delegee are subject to suspension to the same extent as those of the Member.

**ARTICLE VI**  
**BOARD OF TRUSTEES**

**Section 1. Number; Control By Declarant**

(a) The affairs of the Association shall initially be managed by a Board of three (3) Trustees.

(b) The Board initially shall be those three (3) persons named as the initial Board members pursuant to the provisions of the Articles of Incorporation, or such other person or persons as may from time to time be substituted by the Declarant.

(c) At such time as Units to which twenty-five percent (25%) of the undivided interests in the Common Areas appertain have been sold and conveyed by the Declarant, the Unit Owners shall meet and the Unit Owners, other than the Declarant, shall then elect one (1) Board member and the Declarant shall designate the other two (2) of the Board members.

(d) Within thirty (30) days after the earlier of:

(i) five (5) years from the date of establishment of the Association; or

(ii) the sale and conveyance, to purchasers in good faith and for value, of Units to which seventy-five percent (75%) of the undivided interests in the Common Areas appertain, the Unit Owners shall hold a special meeting and all Unit Owners, including the Declarant, shall then elect three (3) Board members to replace all those Board members earlier elected or designated by the Unit Owners or Declarant, respectively, and elect new officers of the Association. Such Board members shall serve until their successors are elected and qualified at the next annual meeting of the Members.

(e) For purposes of computing the percentage of undivided interests in the Common Areas referred to in this



Section 1, the percentage shall be computed by comparing the number of Units sold and conveyed by the Developer to the maximum number of Units that may be created on the Condominium Property, as set forth in the Declaration.

Section 2. Qualification. Except for those persons elected or appointed by Declarant, or as provided in Section 11 hereof, each Board member shall be the owner of an interest in a Unit of the Condominium Property. In the case of a Unit owned by a corporation, partnership, fiduciary or nominee, the designated representative thereof shall be eligible to serve as a Board member. A spouse of a Unit Owner is eligible to serve as a Board member if the Unit Owner removes himself from consideration.

Section 3. Nomination and Election. Excepting for those Board members designated by the Declarant, nomination for election to the Board of Trustees may be made from the floor at the annual or special meeting. At the first annual meeting of the Association the term of office of one Trustee shall be fixed at one (1) year, the term of the second Trustee shall be fixed at two (2) years, and the term of the third Trustee shall be fixed at three (3) years. Subject to the provisions of Article IV Section 2(b) and Article VI Sections 1(c) and (d) hereof, at the expiration of the initial term of office of each respective Trustee, his successor shall be elected to serve a term of three (3) years. The Trustees shall hold office until their successors have been duly elected and hold their first meeting. Election to the Board of Trustees shall be by secret written ballot. At such election, the Members or their proxies may cast, with respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. There shall be no cumulative voting.

Section 4. Organizational Meeting. Immediately after each annual meeting of the Members of the Association, the newly elected Board of Trustees shall hold an organizational meeting for the purpose of electing officers and transacting any other business. Notice of such meeting of Board members need not be given.

Section 5. Regular Meetings. Regular meetings of the Board of Trustees may be held at such times and places within Butler County, Ohio, as may be determined from time to time by a vote of the Board members. Notice of the regular meetings shall be given by personal delivery or by mail at least two (2) days prior to such meetings.

Section 6. Special Meetings; Notice. Special meetings of the Board may be held at any time upon call by the President or any two Board members. Notice of the time, place and purpose of each special meeting shall be given to each Board member by the Secretary or by the person or persons calling such meeting. Such notice shall state the purpose or purposes of the meeting and may

be given in any manner or method and at such times so that the Board member receiving it may have reasonable opportunity to attend the meeting. Except in the case of emergency, such notice shall be delivered at least 48 hours prior to the meeting and directed to the residence of the Board members as shown upon the Secretary's records.

Section 7. Waiver of Notice. The giving of notice of any Board meeting shall be deemed to have been waived by any Board member who shall attend and participate in such meeting without protesting the lack of proper notice, and may be waived, in writing or by telegram, by a Board member either before or after such meeting. Unless otherwise indicated in the notice thereof, any business may be transacted at any organizational, regular or special meeting of the Board.

Section 8. Open Meetings. All meetings of the Board shall be open to all Unit Owners. Adequate notice of all meetings shall be posted on the Condominium Property at least 48 hours in advance of meetings of the Board except in the case of emergency.

Section 9. Quorum; Adjournment. A majority of the Board shall constitute a quorum for the transaction of business, except that a majority of the Board members in office shall constitute a quorum for filling a vacancy on the Board. Whenever less than a quorum is present at the time and place appointed for any meeting of the Board, a majority of those present may adjourn the meeting from time to time until a quorum shall be present. If any meeting is adjourned for any reason other than lack of quorum, notice of such adjournment need not be given if the time and place to which such meeting is adjourned are fixed and announced at such meeting. At each meeting of the Board at which a quorum is present, all questions and business shall be determined by a majority vote of those present, except as may be otherwise expressly provided in the Declaration or in these By-Laws.

Section 10. Actions Without a Meeting. All actions, except removal of officers, which may be taken at a meeting of the Board, may be taken without a meeting with the unanimous consent in writing of all of the Board members. Such writing, signed by each Board member, shall be filed with the minutes and proceedings of the Board.

Section 11. Removal. Excepting only Board members named in the Articles of Incorporation or designated by the Declarant, any Board member may be removed from the Board, with or without cause, if he fails to attend three consecutive meetings of the Board, or by a majority vote of the Members of the Association at a regular or special meeting duly called. In the event of death, resignation or removal of a Board member, his successor shall be selected by the remaining members of the Board of Trustees and shall serve for the unexpired term of his predecessor. The Declarant shall have the sole right to remove, with or without cause, any Board member designated in the Articles or a substitute

selected by the Declarant, and select the successor of any Board member so selected who dies, resigns, is removed or leaves office for any reason before the control of the Association is turned over to the Unit Owners and the election of all Board members by the Unit Owners.

Section 12. Compensation. The Board members shall serve the Association without pay. However, any Board member is entitled to reimbursement for his actual expenses incurred in serving the Association. Nothing herein contained shall be construed to preclude any Board member from having dealings with the Association in any other capacity and receiving compensation therefor, provided such fact is disclosed to all the other Board members.

## ARTICLE VII POWERS AND DUTIES OF THE BOARD OF TRUSTEES

Section 1. General Powers. Except as otherwise provided by law, the Declaration or these By-Laws, all power and authority of the Association shall be exercised by the Board. The Board shall be responsible for the day-to-day operations of the Association, and such other responsibilities as set forth in the Declaration, these By-Laws and Chapters 1702 and 5311 of the Ohio Revised Code. In carrying out its responsibilities, the Board may purchase, lease, sell, exchange and dispose of property; make contracts; purchase and maintain insurance; borrow money; levy assessments against Unit Owners; take all actions deemed necessary or desirable to comply with all requirements of law; promulgate rules and regulations governing the operation of the Condominium Property and the use of the Common Areas and Facilities and Limited Common Areas and Facilities, including, but not limited to, the conduct of the Members and their guests, the designation of parking and play areas, and to provide penalties, including the assessment of fines against Unit Owners, for failure to comply with said rules and regulations; grant permits, licenses and easements over the Common Areas and Facilities and Limited Common Areas and Facilities for utilities, roadways and other purposes determined by the Board of Trustees to be reasonably necessary, useful or desirable; exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration; engage the services of a management agent, and such other employees and independent contractors as the Board shall deem necessary or desirable, and to prescribe the duties and compensation of such management agent, employees or independent contractors.

Section 2. Payment of Common Expenses. The Board shall pay, out of Association funds, as common expenses, the following:

(a) Utilities and Related Facilities - The cost of water, waste removal, electricity, telephone, heat, power or any

other necessary utility service for the Common Areas and the cost of gas, water, hot and cold water lines, waste removal and any utilities which are not separately metered or otherwise directly charged to individual Unit Owners.

(b) Casualty Insurance - Premiums upon a policy or policies of hazard insurance, as provided in the Declaration, the amount of which insurance shall be reviewed annually.

(c) Liability Insurance - Premiums upon a policy or policies insuring the Association, Board members, Unit Owners and occupants against any liability to the public or to the Unit Owners, their tenants, guests, invitees and licensees, incident to ownership or use of the Common Areas, as provided in the Declaration, the limits of which policy or policies shall be reviewed annually.

(d) Other Insurance - Premiums for other insurance purchased in accordance with the provisions of the Declaration and these By-Laws.

(e) Workers' Compensation - The cost of Workers' Compensation insurance to the extent necessary to comply with any applicable laws.

(f) Wages and Fees for Services - The fees for services of any person or firm employed by the Association, including, without limitation, the services of a person or firm to act as a Managing Agent of the Condominium Property, the services of any person or persons required for the maintenance or operation of the Condominium Property, and legal and accounting services necessary or proper in the operation of the Condominium Property or the enforcement or interpretation of the Declaration and these By-Laws and for the organization, operation and enforcement of the rights of the Association.

(g) Care of Common Areas and Limited Common Areas - The cost of landscaping, lawn maintenance, security, snow removal, painting, cleaning, decorating, window cleaning, and maintaining, repairing and replacing the Common Areas and the decks, patios and other Limited Common Areas, excluding regular sweeping, cleaning and snow and ice removal from front door stoops, decks, patios, wooden access walks on end Units and concrete driveway garage entrances connecting roadways to garages, which shall be done by the corresponding Unit Owners.

(h) Certain Maintenance of Units - The cost of the maintenance and repair of any Unit or Garage Unit, if such maintenance or repair is necessary, in the discretion of the Board, for public safety or to protect the Common Areas or Limited Common Areas or any other portion of the Condominium Property from damage or destruction, and if the Unit Owner has failed or refused to perform such maintenance or repair within a reasonable time after written notice of the necessity thereof delivered by the

Association to such Unit Owner or Garage Unit owner, provided that the Association shall levy a special assessment against such Unit Owner for the cost of such maintenance or repair.

(i) Discharge of Mechanic's Liens - Any amount necessary to discharge any mechanic's lien or other encumbrance levied against the entire Condominium Property or any part thereof which may in the opinion of the Association constitute a lien against the entire Condominium Property, rather than solely against the interests therein of any particular Unit Owner; it being understood, however, that the foregoing authority shall not be a limitation of any statutory provisions relating thereto.

(j) Additional Expenses - The cost of any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, or other common expenses which the Association is required or permitted to secure or pay for pursuant to the terms of the Declaration, these By-Laws, or Chapters 1702 and 5311 of the Ohio Revised Code, or which in the Board's opinion shall be necessary or proper for the maintenance, repair, replacement and operation of the Condominium Property as a first class condominium property, or for the enforcement or interpretation of the Declaration and these By-Laws.

Section 3. Division of Common Expenses and Profits. The common profits of the Condominium Property shall be distributed among, and the Common Expenses shall be assessed against, the Unit Owners by the Association according to the percentage of interest in the Common Areas and Facilities of the respective Units. Each Unit Owner shall pay his Unit's proportionate share of assessments for Common Expenses, and any Limited Common Expenses and/or special assessments levied against said Unit Owner. No Unit Owner shall except himself from liability for such assessments by waiver of the use or enjoyment of the Common Areas and Facilities or by the abandonment of his Unit.

If assessments collected during any fiscal year are in excess of the funds necessary to meet the anticipated expenses for which the same have been collected, the excess shall be retained as reserves and shall in no event be deemed profits nor be available, except on dissolution of the Association, for distribution to Unit Owners.

Section 4. The Association's Right to Enter Units and Garage Units. The Association through its Board members, officers, Managing Agent or other agents, may enter any Unit or Garage Unit when necessary in connection with any maintenance or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Unit Owner or Garage Unit owner as practicable, and prior notice shall be given except in an emergency situation. Any damage caused thereby shall be repaired by the Association, and the cost charged as a common expense. In the event of any emergency originating in or threatening any Unit

or Garage Unit, the Managing Agent or representative or any other person designated by the Board may enter the Unit or Garage Unit immediately, whether the Unit Owner is present or not, provided that the Association shall notify such Unit Owner or Garage Unit owner of such entry as soon as practicable after the fact.

Section 5. Duties of the Board. It shall be the duty of the Board of Trustees to:

(a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members or at any special meeting, when such statement is requested in writing by one-half (1/2) of the Members who are entitled to vote;

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

(c) Fix the amount of all assessments and charges, including the cost of insurance, against each Unit at least thirty (30) days in advance of each assessment period, as further provided in the Declaration, and send written notice of each assessment to every Unit Owner subject thereto at least thirty (30) days in advance of each assessment period.

(d) Issue, or to cause an appropriate officer or manager to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states any assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) Cause all officers or employees having fiscal responsibilities to be bonded, as the Board may deem appropriate;

(f) Cause the Common Areas and Limited Common Areas to be maintained;

(g) Cause the restrictions created by the Declaration to be enforced.

#### **ARTICLE VIII**

#### **OFFICERS AND THEIR DUTIES**

Section 1. Enumeration of Officers. The officers of the Association shall be a president, one or more vice presidents, a secretary, a treasurer, and such other officers as the Board may from time to time by resolution create. The same person may hold more than one office.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Trustees following each annual meeting of the Members.

Section 3. Term. The officers of the Association shall be elected annually by the Board and each shall hold office for one year unless he shall sooner resign, or shall be removed or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office shall be filled by the Board. The officer elected to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Duties of Officers. The duties of the officers are as follows:

(a) President - The President shall be the chief executive officer of the Association, shall preside at all meetings of the Members, shall see that orders and resolutions of the Board are carried out, shall sign all contracts, leases, mortgages, easements, deeds and other written instruments and shall co-sign all promissory notes.

(b) Vice President - The Vice President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) Secretary - The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members, shall have the authority to sign all contracts, notes and other instruments executed by the Association requiring his signature, shall serve notice of meetings of the Board and of the Members, keep appropriate current books and records showing the Members of the Association, together with their addresses, and shall perform such other duties as required by the Board.

(d) Treasurer - The Treasurer, or the Manager acting under the Treasurer's control, shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Trustees, shall sign all checks and promissory notes of the Association, keep proper books of accounts, cause, at the direction of the Board of Trustees or a majority of the Unit Owners or a majority of the first mortgagees of Units, an annual audit of the Association's books to be made by a public accountant at the completion of each fiscal year, and shall prepare an annual budget and statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy to each of the Members.

Section 8. No Compensation. None of the officers of the Association shall receive compensation for his services.

#### **ARTICLE IX** **COMMITTEES**

Section 1. The Board may appoint such committees as deemed appropriate in carrying out its purposes, and may discontinue the same at its discretion.

Section 2. It shall be the duty of each committee to receive complaints from Members on any matter involving Association functions, duties and activities within its field of responsibility. Each such committee shall dispose of such complaints as it deems appropriate or refer them to the Board or to such other committee, manager or officer of the Association as is further concerned with the matter presented.

Section 3. Reports. Each committee shall keep records and accounts of its proceedings and transactions. All actions by any committee shall be reported to the Board at its next succeeding meeting and shall be subject to approval and revision by the Board, provided that no rights of third persons shall be prejudicially affected thereby.

#### **ARTICLE X** **ASSESSMENTS**

Section 1. Creation of the Lien and Personal Obligation of Assessments. By the Declaration, each Member is deemed to covenant and agree to pay the Association an annual general operating assessment or charge, which shall include reserve funds necessary for future capital improvements. All assessments or charges together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the Unit and shall be a continuing lien upon the property against which each such assessment is made. All assessments or charges, together with such interest, costs and reasonable attorney's fees



shall also be the personal obligation of the person who was the owner of such property when the same fell due, and shall pass to his successor in title.

Section 2. Annual Assessments. For the balance of the calendar year in which the conveyance of the first Unit to an owner takes place and for each calendar year thereafter, the Board of Trustees shall fix the annual assessment, including reserve funds, payable in equal monthly installments. All insurance premiums may be charged by assessment against Unit Owners as a Common Expense and payable to the Association at such times as is determined by the Association.

Section 3. Special Assessments. In addition to the annual assessments authorized above, the Association may levy in any assessment year, a special assessment estimated to be necessary for present or future capital improvements, for the purpose of defraying, in whole or in part, any operating expense overruns, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Areas or Limited Common Areas, including the necessary fixtures and personal property related thereto, PROVIDED THAT any such assessment shall have the assent of a majority of the votes of Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting.

Section 4. Commencement of Annual Assessments. The annual assessment provided for herein shall commence as to all Units in a particular phase on the date upon which the Declaration or an amendment thereto is filed for record subjecting the Units in that phase to ORC Chapter 5311.

Section 5. Effect of Non-Payment of Assessments; Remedies of the Association. Any assessment or monthly installments which are not paid when they are due shall be delinquent. If the monthly installment of the assessment is not paid within ten (10) days after the due date, the entire assessment shall be immediately payable in full and interest may be charged at the maximum rate allowed by law until such time as the same has been paid in full. If any assessment is not paid within ten (10) days after the due date, the Association may assess a late charge of Ten Dollars (\$10.00). Notice of such default and any corresponding lien to be filed shall be given, in writing, to any first mortgagee of such Unit. The Association shall file a certificate for such lien with the Recorder of Butler County, Ohio pursuant to authorization given by the Board of Trustees, which shall contain a description of the Unit, the name or names of the Unit Owner or Owners thereof and the amount of such unpaid portions of the assessments and shall be subscribed by the President or other authorized officer of the Association. Such lien shall remain valid for a period of five (5) years from the time of filing thereof, unless sooner

released or satisfied in the same manner provided by law or discharged by the final judgment or order of a court in an action brought to discharge all or any portion of such lien. The Association may bring an action at law against the Unit Owner personally obligated to pay the same or foreclose the lien against the Unit, and interest, late charges, costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. In any foreclosure action, the Unit Owner affected shall be required to pay, in addition to all costs of collection incurred by the Association, including, without limitation, attorneys' fees, a reasonable rental for the Unit during the pendency of the action, and the plaintiff in the action is entitled to the appointment of a receiver to collect the rental. No Unit Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common or Limited Common Areas and Facilities or abandonment of his Unit.

Section 6. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall take priority over any lien or encumbrance subsequently arising or created except liens for real estate taxes and assessments and liens of first mortgages which have been filed for record. Sale, transfer or foreclosure of any Unit shall not affect the assessment lien. No sale or transfer shall release such Unit from liability for any assessments thereafter becoming due or from the lien thereof.

Section 7. Non-Liability of Foreclosure Sale Purchaser for Past Due Common Expenses. Where the mortgagee of a first mortgage of record acquires an ownership interest in a Unit as a result of foreclosure of the first mortgage or of the acceptance of a deed in lieu of foreclosure, such mortgagee, its successors and assigns, shall not be personally liable for the assessments levied against such Unit which were levied prior to the acquisition of an ownership interest in such Unit by such mortgagee. Such assessments shall be a lien, however, and shall be paid out of the monies received at the foreclosure sale, if the proceeds therefrom are sufficient for such purpose. To the extent such assessments are not paid, however, they may be deemed to be Common Expenses and may be levied against all of the Unit Owners within a reasonable time of the acquisition of title by such mortgagee.

## ARTICLE XI BOOKS AND RECORDS

Section 1. Inspection. The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member at the principal office of the Association or of the managing agent, where copies may be purchased at reasonable cost.

Section 2. Annual Statements. At or before each annual meeting of Members of the Association, the Board shall furnish to each Unit Owner a financial statement containing a summary of the

assets and liabilities of the Association as of the previous accounting year, and a statement of the income and disbursements for the previous year.

**ARTICLE XII**  
**REMEDIES FOR VIOLATION OF**  
**CONDOMINIUM DOCUMENTS OR RULES**

Section 1. Remedies. In the event of any default by any Unit Owner under the provisions of the Declaration, these By-Laws, or rules and regulations of the Association, not cured within thirty (30) days, the Association and the Board of Trustees, after written notice to any first mortgagee, shall have each and all of the rights and remedies which may be provided for in ORC 5311.01 et. seq., the Declaration, these By-Laws, or said rules and regulations or which may be available at law or in equity, and may prosecute any action or other proceedings against such defaulting Unit Owner and/or Owners for enforcement of any lien, statutory or otherwise, including foreclosure of such lien and the appointment of a receiver for the Unit and ownership interest of such Unit Owner, or for damages or injunction or specific performance or for judgment for payment of money, fines, and collection thereof or for any combination of remedies, or for any other relief.

Section 2. Expenses. All expenses of the Association in connection with any such actions or proceedings, including court costs and attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, and all fines properly assessed against the Unit Owner for violation of the Declaration, these By-Laws, or rules and regulations of the Association, together with interest thereon at the maximum rate permitted by law per annum until paid, may be charged to and assessed against such defaulting Unit Owner, and shall be added to and deemed a part of his respective share of the Common Expenses, and the Association shall have a lien for all of the same, as well as for non-payment of his respective share of the Common Expenses, upon the Unit of such defaulting Unit Owner and upon all of his additions and improvements thereon. In the event of any such default by any Unit Owner, the Association and the Board of Trustees, and the manager or managing agent, if so authorized by the Board of Trustees, shall have the authority to correct such default, and to do whatever may be necessary for such purpose, and all expenses in connection therewith shall be charged to and assessed against such defaulting Unit Owner.

Section 3. Exercise of Remedies. Any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Association or the Board of Trustees.

ARTICLE XIII  
AMENDMENT OF BY-LAWS

Section 1. Voting Requirement for Amendment. These By-Laws may be amended from time to time at an annual or special meeting of the Association by an affirmative vote of not less than seventy-five percent (75%) of the voting power of the Association.

Section 2. Limitations. The Declaration provides that, except as provided therein, to these By-Laws no amendment shall alter the percentage interest in the Common Areas of each Unit, change the boundaries of any Unit, increase the Unit Owner's share of the Common Expenses, or change the number of votes in the Association appertaining to any Unit, unless the consent of all affected Unit Owners is obtained.

Section 3. Certificate. A copy of each amendment to these By-Laws shall be attached to a certificate certifying that the amendment was duly adopted, which certificate shall be executed by the appropriate officer of the Association with the formalities of a deed. The amendment shall be effective when such certificate and a copy of the amendment are recorded in the Butler County, Ohio Recorder's Office.

ARTICLE XIV  
COVENANTS

Section 1. Binding Nature. The provisions of the Declaration and these By-Laws and the rights and obligations established thereby shall be deemed to be covenants running with the land so long as the property remains subject to the provisions of Chapter 5311 of the Ohio Revised Code, as revised from time to time, and shall inure to the benefit of and be binding upon each and all of the Unit Owners and their respective heirs, representatives, successors, assigns, purchasers, lessees, grantees and mortgagees. By the recording or the acceptance of a deed or mortgage conveying a Unit or any interest therein, or any ownership interest in the property whatsoever, the person to whom such Unit or interest is conveyed shall be deemed to accept and agree to be bound by and subject to all of the provisions of the Condominium Statute, the Declaration and these By-Laws.

Section 2. Non Waiver of Covenants. No covenants, restrictions, conditions or obligations contained in the Declaration or these By-Laws shall be deemed to have been waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

ARTICLE XV  
INDEMNIFICATION OF BOARD MEMBERS AND OFFICERS

Section 1. Indemnification by Association. Each Board member and officer of the Association and each former Board member and officer of the Association shall be indemnified by the Association to the fullest extent permitted under Ohio law against all costs and expenses reasonably incurred by him in connection with the defense of any pending or threatened action, suit or proceeding, criminal or civil, to which he is or may be made a party by reason of his being or having been such Board member or officer of the Association (whether or not he is a Board member or officer at the time of incurring such costs and expenses), except with respect to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of his duty as such Board member or officer, or found not to have acted in good faith or in a manner he reasonably believed to be in the best interests of the Association.

Section 2. Non-exclusive Rights. The foregoing rights of indemnification shall inure to the benefit of the heirs and legal representatives of each such Board member or officer, and shall not be exclusive of other rights to which any Board member or officer may be entitled as a matter of law, under the Declaration, any vote of the Members or any agreement.

ARTICLE XVI  
MISCELLANEOUS

Section 1. Severability. The invalidity of any covenant, restriction, condition, limitation or any other provision of these By-Laws, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the balance of these By-Laws.

Section 2. Construction. Whenever the masculine singular form of the pronoun is used in these By-Laws, it shall be construed to mean the masculine, feminine or neuter, singular or plural, wherever the context so requires.

Section 3. Captions. The captions used in these By-Laws are inserted solely as a matter of convenience and shall not be relied upon or used in construing the effect or meaning of any of the text hereof.

Section 4. Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

Section 5. Conflict. In the case of any conflict between the Articles of Incorporation of the Association and these By-

IN WITNESS WHEREOF, A. William Erpenbeck, Jr., sole incorporator, has adopted these By-Laws of The Lofts at Wetherington Condominium Unit Owners' Association, Inc., this \_\_\_\_ day of \_\_\_\_\_, 1999.

THE LOFTS AT WETHERINGTON  
CONDOMINIUM UNIT OWNERS'  
ASSOCIATION, INC.

By: A. William Erpenbeck, Jr.  
Sole Incorporator

Printed Name: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, on the day and year last aforesaid.

Notary Public  
My Commission Expires: