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MONTGOMERY CO. OHIO
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DECLARATION OF CONDOMINIUM PROPERTY

FOR

ASHTON GARDENS CONDOMINIUM

I hereby certify that copies of the within Declaration, together with the drawings attached as an Exhibit thereto, have been filed in the office of the Auditor, Montgomery County, Ohio.

NOV 19 1987

DANA A. STAMPS
MONTGOMERY COUNTY AUDITOR

By: Dana A. Stamps
Montgomery County Auditor

PLAT REFERENCE:

BOOK

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THIS INSTRUMENT PREPARED BY:

HANS H. SOLTAU
Attorney at Law
124 East Third Street
Dayton, Ohio 45402

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11-19-87
Date

I hereby certify that said
parties appeared before me on
the 19th day of November, 1987,
and acknowledged to me as Recorder.

Date 11-19-87
By M. S. Sauer
Deputy

DECLARATION

Table of Contents

RECITALS	1
DECLARATIONS	2
ARTICLE I	
DEFINITIONS	2
1.01 Additional Property	2
1.02 Agent	2
1.03 Amendment	2
1.04 Articles and Articles of Incorporation	2
1.05 Association	2
1.06 Board of Managers	2
1.07 By-Laws	2
1.08 Common Areas and Facilities	3
1.09 Common Assessments	3
1.10 Common Expenses	3
1.11 Common Losses	3
1.12 Common Profits	3
1.13 Common Surplus	3
1.14 Condominium	3
1.15 Condominium Instruments	3
1.16 Condominium Ownership Interest	3
1.17 Condominium Property	3
1.18 Declarant	3
1.19 Declaration	3
1.20 Design Guidelines	3
1.21 Design Review Committee	4
1.22 Developer	4
1.23 Drawings	4
1.24 Limited Common Areas and Facilities	4
1.25 Master Association	4
1.26 Master Declaration	4
1.27 Master Rules and Regulations	4
1.28 Person	4
1.29 Unit	4
1.30 Unit Owner	4
ARTICLE II	
NAME AND PURPOSE	4
2.01 Name	4
2.02 Purpose	4

ARTICLE III		
MASTER DECLARATION	.....	5
3.01	General	5
3.02	Incorporation by Reference	5
3.03	Conflict	5
ARTICLE IV		
LEGAL DESCRIPTION OF PREMISES	.....	5
ARTICLE V		
DESCRIPTION AND LOCATION OF BUILDINGS	.....	5
5.01	Description	5
5.02	General	5
5.03	Location	5
ARTICLE VI		
DESCRIPTION OF UNITS	.....	6
6.01	General	6
6.02	Specific	6
ARTICLE VII		
DESCRIPTION OF COMMON AREAS AND FACILITIES	.....	7
7.01	General	7
7.02	Status	7
ARTICLE VIII		
DESCRIPTION OF LIMITED COMMON AREAS AND FACILITIES	.....	7
8.01	General Uses	7
8.02	Specific Uses	7
8.03	Garage Spaces	8
ARTICLE IX		
USE OF COMMON AREAS AND FACILITIES	.....	8
ARTICLE X		
OWNERSHIP OF COMMON AREAS AND FACILITIES	.....	9
10.01	Percentage of Ownership	9
10.02	Computation	9
10.03	Amendment	9
ARTICLE XI		
REGULATION OF COMMON AREAS AND FACILITIES	.....	9
ARTICLE XII		
RESTRICTIONS ON THE USE OF CONDOMINIUM PROPERTY	.....	10
12.01	Obstruction of Common Areas and Facilities	10
12.02	Hazardous Uses and Waste	10
12.03	Exterior Surfaces	10
12.04	Windows and Doors	10

12.05	Animals	10
12.06	Nuisances	11
12.07	Impairment of Structural Integrity of Building	11
12.08	Laundry or Rubbish in Common Areas and Facilities	11
12.09	Lounging or Storage in Common Areas and Facilities	11
12.10	Prohibited Activities	11
12.11	Signs	11
12.12	Alteration of Common Areas and Facilities	11
12.13	Rental of Units	11
12.14	Garbage and Refuse Disposal	12
12.15	Water Supply	12
12.16	Sewage Disposal	12
12.17	Rules and Regulations	12
12.18	Declarant	12
ARTICLE XIII		
UNIT OWNERS' ASSOCIATION		12
13.01	General	12
13.02	Membership in the Association	13
13.03	Administration of Condominium Property	13
13.04	Service of Process	13
13.05	First Meeting of Association	13
13.06	Declarant's Rights	13
13.07	Computation	13
13.08	Turnover	13
ARTICLE XIV		
AMENDMENT OF DECLARATION AND BY-LAWS		14
14.01	General	14
14.02	Mortgage or Mortgagee	14
14.03	Declarant's Rights	14
ARTICLE V		
MANAGEMENT, MAINTENANCE, REPAIRS, ALTERATIONS		
AND IMPROVEMENTS		14
15.01	Association	14
15.02	Delegation to Managing Agent	14
15.03	Mortgagee	15
15.04	Unit Owner	15
15.05	Master Declaration	16
15.06	Master Association	16
15.07	Construction Defects	16
15.08	Effect of Insurance or Construction Guarantees	16
ARTICLE XVI		
EASEMENTS		16
16.01	Encroachments	16
16.02	Easements for Repair, Maintenance and Restoration	17
16.03	Easements Through Walls Within Units	17
16.04	Easements for Certain Utilities and Cable Television	17

16.05	Easements for Construction	17
16.06	Tie-In Easements	17
16.07	Service Easements	17
16.08	Water Easement	18
16.09	Additional Property Easement	18
16.10	Adjoining Property Easement	18
16.11	Master Declaration	18
16.12	Consent to Easements	18
16.13	Easements Shall Run With Land	18
ARTICLE XVII		
HAZARD INSURANCE		18
17.01	Fire and Extended Coverage Insurance	18
17.02	Sufficient Insurance	19
17.03	Insufficient Insurance	20
17.04	Procedure for Reconstruction or Repair	20
17.05	Insurance Trustee	20
17.06	Procedure for Reconstruction or Repair if an Insurance Trustee Has Been Selected	21
17.07	Non-Restoration of Damage or Destruction	22
ARTICLE XVIII		
LIABILITY AND OTHER INSURANCE		22
18.01	Liability Insurance	22
18.02	Other Insurance	22
18.03	Notice of Cancellation or Substantial Changes	23
18.04	Annual Review	23
18.05	Master Association	23
ARTICLE XIX		
REHABILITATION AND RENEWAL OF OBSOLETE PROPERTY		23
ARTICLE XX		
REMEDIES FOR BREACH OF COVENANTS AND RESTRICTIONS		23
20.01	Abatement and Enjoinment	23
20.02	Involuntary Sale	24
20.03	Civil Action	24
ARTICLE XXI		
ASSESSMENTS AND LIEN OF ASSOCIATION		25
21.01	General	25
21.02	Division of Common Profits and Common Expenses	25
21.03	Non-Use of Facilities	25
21.04	Acceleration and Late Charges	25
21.05	Lien of Association	25
21.06	Priority of Association's Lien	25
21.07	Special Individual Unit Assessment	26

21.08	Dispute as to Common Expenses	26
21.09	Non-Liability of Foreclosure Sale Purchaser or an Acquirer of Title in Lieu of Foreclosure for Past Due Common Expenses	26
21.10	Liability for Assessments Upon Voluntary Conveyance	26
ARTICLE XXII		
ADDITIONAL PROPERTY		27
22.01	Contemplated Annexation by Declarant	27
22.02	Reservation of Option to Expand	27
22.03	Limitations on Declarant's Option	27
22.04	Additional Property	27
22.05	Location and Type of Improvements	27
22.06	Structures	27
22.07	Units	27
22.08	Limited Common Areas and Facilities	28
22.09	Reservation of Right to Amend Declaration	28
22.10	Consent and Approval for Annexation Amendments	28
22.11	Power of Attorney, Coupled With an Interest	28
22.12	Description	28
ARTICLE XXIII		
LIMITED WARRANTIES BY DECLARANT		29
23.01	Two Year Limited Warranty	29
23.02	One Year Limited Warranty	29
23.03	Appliances	29
23.04	Assignment	29
ARTICLE XXIV		
MISCELLANEOUS PROVISIONS		29

DECLARATION OF CONDOMINIUM OWNERSHIP

THIS DECLARATION, made on the date hereinafter set forth by Ashton Gardens of Lincoln Park., an Ohio partnership, hereinafter referred to as "Declarant".

RECITALS

A. Declarant is the owner in fee simple of the real property hereinbelow described, and it is its desire and intention to enable said real property, together with all buildings, structures, improvements and other permanent fixtures of whatsoever kind situated thereon, and all privileges belonging or in any way appertaining thereto, to be owned under and pursuant to that certain type of ownership commonly known as "Condominium", and to subject and submit such property to the provisions of Chapter 5311 of the Ohio Revised Code.

B. Declarant is further desirous of establishing for the mutual benefit of all future owners, mortgagees or occupants of the Condominium Property or any part thereof, which shall be known as ASHTON GARDENS CONDOMINIUM, certain easements and rights in, over and upon such Condominium Property, and certain mutually beneficial restrictions and obligations with respect to the use, conduct and maintenance thereof.

C. Declarant desires and intends that the several owners, mortgagees, occupants and other persons hereafter acquiring an interest in the Condominium Property shall, at all times, enjoy the benefits of, and shall hold their interests therein subject to the rights, easements, privileges and restrictions hereinafter set forth in this Declaration, and in the By-Laws of Ashton Gardens Condominium Association, Inc. attached hereto as Exhibit "C".

D. The Condominium Property is also a part of Lincoln Park Center, a planned community consisting of or to consist of other residential developments and/or commercial centers, leasehold developments together with green space, open areas and other amenities.

E. In addition to this Declaration and its exhibits, the several owners, mortgagees, occupants and other persons hereafter acquiring an interest in the Condominium Property shall also, at all times, enjoy the benefits of and shall hold their interests subject to the rights, easements, privileges and restrictions set forth in the Master Declaration of Covenants, Conditions and Restrictions for Lincoln Park Center, and in any exhibits attached thereto, or amendments thereof.

F. Declarant is also the owner of real property adjacent to and adjoining the real property submitted hereby and contemplates submitting such property to the provisions of this Declaration by an amendment or amendments hereto.

DECLARATIONS

NOW, THEREFORE, Declarant hereby makes the following Declaration as to the covenants, restrictions, limitations, conditions and uses to which the Condominium Property may be put, hereby specifying that said Declaration shall constitute covenants to run with the land and shall be binding on Declarant, its successors and assigns, and all subsequent owners of all or any part of the Condominium Property, together with their respective grantees, heirs, executors, administrators, devisees, successors or assigns.

ARTICLE I DEFINITIONS

The following terms used herein are defined as follows:

1.01 Additional Property, shall mean adjacent or adjoining property which is described in Exhibit "D" of this Declaration, and which, together with improvements thereon, may be added in the future to the Condominium,

Lot 20

1.02 Agent, shall mean any person who represents or acts for or on behalf of the Developer in selling or offering to sell a Condominium Ownership Interest, but shall not include an attorney-at-law whose representation of another person consists solely of rendering legal services.

1.03 Amendment, shall mean an instrument executed with the same formalities of the Declaration and recorded with the Recorder of Montgomery County, Ohio for the purpose of amending the Declaration or any of the exhibits thereto.

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

1.05 Association, shall mean Ashton Gardens Condominium Association, Inc., an Ohio not-for-profit corporation, its successors and assigns. For purposes of the Master Declaration, it is a Village Association as defined in Section 1.36 thereof.

1.06 Board of Managers, shall mean those persons who, as a group, serve as the board of trustees of the Association. For purposes of the Master Declaration, it is a Village Board of Trustees as defined in Section 1.37 thereof.

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

- 1.08 Common Areas and Facilities, shall mean all the Condominium Property except that which is specifically defined and referred to as a Unit.
- 1.09 Common Assessments, shall mean the assessments charged proportionately on the basis of percentage of interest against all Units for common purposes.
- 1.10 Common Expenses, shall mean those expenses designated as such by Chapter 5311 of the Ohio Revised Code, or in accordance with the provisions of the Declaration, or both.
- 1.11 Common Losses, means the amount by which the Common Expenses during any period of time exceeds Common Assessments and Common Profits during that period.
- 1.12 Common Profits, means the amount by which the total income received from assessments charged for special benefits to specific Units, rents received from rentals of equipment or space in Common Areas and Facilities, and any other fee, charge or income other than Common Assessments exceeds expenses allocable to the income, rental, fee or charge.
- 1.13 Common Surplus, means the amount by which Common Assessments collected during any period exceeds Common Expenses.
- 1.14 Condominium, shall mean Ashton Gardens Condominium, the condominium regime for the Condominium Property created under and pursuant to the provisions of Chapter 5311 of the Ohio Revised Code. For purposes of the Master Declaration, it is a Village as defined in Section 1.34 thereof.
- 1.15 Condominium Instruments, shall mean the Declaration, the drawings and By-Laws attached as exhibits thereto, any contract pertaining to the management of the Condominium Property, and all other documents, contracts or instruments establishing ownership or exerting control over the Condominium Property or a Unit.
- 1.16 Condominium Ownership Interest, means a fee simple estate or a ninety-nine (99) year leasehold estate, renewable forever in a Unit, together with its appurtenant undivided interest in the Common Areas and Facilities.
- 1.17 Condominium Property, means land, all buildings, improvements and structures on the land, all easements, rights and appurtenances belonging to the land, and all articles of personal property submitted to the provisions of Chapter 5311 of the Ohio Revised Code by this Declaration and any amendment thereto.
- 1.18 Declarant, shall mean Ashton Gardens of Lincoln Park, an Ohio partnership, its successors and assigns.
- 1.19 Declaration, means the instrument by which the hereinafter described property is submitted to the provisions of Chapter 5311 of the Ohio Revised Code and any and all amendments thereto.
- 1.20 Design Guidelines, shall mean those guidelines or standards, as may be amended from time to time, which are prescribed by the Design Review Committee as provided for in Article IX of the Master Declaration.

1.21 Design Review Committee, shall mean the entity established pursuant to Article IX of the Master Declaration for the purpose of administering the Design Guidelines.

1.22 Developer, shall mean the Declarant, any successor to the Declarant who stands in the same relation to the Condominium Property as the Declarant, and any person who directly or indirectly sells or offers for sale a Condominium Ownership Interest.

1.23 Drawings, shall mean those drawings, as the same may be lawfully amended from time to time, which are attached as Exhibit "B" to this Declaration.

1.24 Limited Common Areas and Facilities, means and includes those Common Areas and Facilities designated in this Declaration, and any amendment thereto, as reserved for the use of a certain Unit or Units to the exclusion of the other Units.

1.25 Master Association, shall mean Lincoln Park Owners' Association, Inc., an Ohio not-for-profit corporation, its successors and assigns. ✓

1.26 Master Declaration, shall mean the Master Declaration of Covenants, Conditions and Restrictions for Lincoln Park Center, and any amendments thereto. ✓

1.27 Master Rules and Regulations, shall mean those rules and regulations, as may be amended from time to time, which have been adopted by the Master Association.

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

1.29 Unit, shall mean a part of the Condominium Property consisting of one or more rooms on one or more floors of a building which are designated a Unit by this Declaration or amendment thereto and are delineated on the drawings in Exhibit "B" attached hereto and in the drawings attached to an amendment of this Declaration. For purposes of the Master Declaration, it is a Dwelling Unit as defined in Section 1.20 thereof.

1.30 Unit Owner, means a person who owns a Condominium Ownership Interest in a Unit.

ARTICLE II NAME AND PURPOSE

2.01 Name. The Condominium Property shall be known as Ashton Gardens Condominium.

2.02 Purpose. The Condominium Property shall be used for single family residence purposes and common recreational purposes auxiliary thereto and for no other purpose; provided, however, that Declarant or its agents may use one or more of the Units for sales, promotional, development, construction and office purposes.

ARTICLE III
MASTER DECLARATION

3.01 General. The Condominium Property is subject to the Master Declaration.

3.02 Incorporation by Reference. Any reference in this Declaration to any specific provision in the Master Declaration shall be specifically incorporated herein, as if fully rewritten herein.

3.03 Conflict. In the event of any conflict in the provisions hereof with the provisions of the Master Declaration, the provisions of the Master Declaration shall control.

ARTICLE IV
LEGAL DESCRIPTION OF PREMISES

4.01 The real property subject to this plan for condominium ownership is described in Exhibit "A" attached hereto.

ARTICLE V
DESCRIPTION AND LOCATION OF BUILDINGS

5.01 Description. Unless or until amended, the following buildings are located on the Condominium Property, which are generally described as follows:

- (a) Buildings 1 and 4 are residential buildings which are three (3) stories in height. Each building contains a total of twelve (12) Units, four (4) on each floor.
- (b) Building A is one (1) story in height containing a total of one hundred and twelve (112) garage spaces, together with recreational amenities and facilities on its roof.

5.02 General. The residential buildings are built on a concrete slab, with frame exterior walls, with some brick veneer, stucco and siding, windows, a wood truss roof with asphalt shingle or wood covering, wood floor joists, wall studs and drywall. Building A has been constructed of poured and/or pre-fabricated concrete.

5.03 Location. The buildings face Ashton Circle, a private drive, leading to Issac Prugh Boulevard, public highway.

ARTICLE VI
DESCRIPTION OF UNITS

6.01 General. Each of the Units within this Declaration or any additional Units brought within the provisions of the Declaration by amendment hereto shall consist of all of the space bounded by the undecorated surfaces of the perimeter walls, floors and ceilings of each such Unit to constitute a complete enclosure of space; the dimensions, layouts and descriptions of each such Unit being shown on the drawings attached hereto as Exhibit "B" and in the drawings attached to any amendment hereto and include, without limitation:

- (a) The decorated surfaces, including paint, lacquer, varnish, wallpaper, tile and other finishing material(s) applied to the interior surface of such perimeter walls, floors and ceilings;
- (b) All windows, screens and doors, including the frames, sashes and jams, and the space occupied thereby;
- (c) All fixtures located within the bounds of a Unit, installed in and for the exclusive use of said Unit, commencing at the point of disconnection from the structural body of the building or from the point of disconnection of utility pipes, lines or systems serving the entire building or more than one Unit thereof, whichever may be applicable;
- (d) All control knobs, switches, thermostats and base plugs, floor plugs and connections affixed to or projecting from the walls, floors and ceilings which service either the Unit or the fixtures located therein;
- (e) All interior walls, floors and ceilings;
- (f) All plumbing, electric, heating, security, alarm, vacuum, cooling and other utility lines, pipes, wires, ducts or conduits which exclusively serve either the Unit or the fixtures located therein, and which are located within the bounds of the Unit.

But excepting therefrom , all plumbing, electric, heating, cooling and other utility service lines, pipes, wires, ducts or conduits which are located within the bounds of a Unit but which do not exclusively serve such Unit.

6.02 Specific. Unless or until amended, there is one (1) type of Unit which is described as a one (1) story Unit containing approximately 1,182 square feet, containing two (2) bathrooms, two (2) bedrooms, a kitchen, a dining area, great room and a utility room.

ARTICLE VII
DESCRIPTION OF COMMON AREAS AND FACILITIES

7.01 General. The entire balance of the land and improvements thereon, including but not limited to all buildings, foundations, roofs, main and supporting walls, patios, decks, balconies, driveway, parking area, pumps, lakes, detention or retention ponds, trees, lawns, gardens, stoops, wires, conduits, utility lines and ducts, now or hereafter situated on the Condominium Property, are hereby declared and established as the Common Areas and Facilities.

7.02 Status. All Common Areas and Facilities included in the Condominium subjected by the Declaration and any amendment thereto are fully installed, completed and in operation for the use of the Unit Owners.

ARTICLE VIII
DESCRIPTION OF LIMITED COMMON AREAS AND FACILITIES

8.01 General Uses. All plumbing, electrical, heating, cooling and other utility service lines, pipes, wires, ducts and conduits which serve only one (1) Unit shall be Limited Common Areas and Facilities for the exclusive use of the Unit served thereby.

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

- (a) The patios and/or decks are designated as Limited Common Areas and Facilities for the Unit adjoining such patio and/or deck.
- (b) The garage space assigned by the Declarant to a particular Unit is designated as Limited Common Areas and Facilities for the Unit to which it is assigned.
- (c) The hallways on a particular floor within a particular building are designated as Limited Common Areas and Facilities for the Units on such floor.
- (d) The entranceways, stoops, stairways and elevators of a particular building are designated as Limited Common Areas and Facilities for the Units in such building.
- (e) The air conditioning pad, compressor, duct and conduits thereto are designated as Limited Common Areas and Facilities for the Unit being serviced by such equipment.

8.03 Garage Spaces. In addition to those garage spaces which have been designated as Limited Common Areas and Facilities in Section 8.02(b), there are additional garage spaces which are also hereby designated as Limited Common Areas and Facilities. The Board of Managers shall assign such additional garage spaces to a Unit subject to the following:

- (a) The assignment shall be conditional and provide that so long as the Unit Owner complies with the terms of this Declaration and any rules and regulations which may be adopted by the Board of Managers, that such Unit Owner shall have the right to use such garage space.
- (b) The Board of Managers shall have the right to assess a non-discriminatory fee for such assignment. Such fee shall be reviewed annually and included within the budget.
- (c) The assignment of a garage space is non-transferable by the Unit Owner and cannot be further assigned, transferred, conveyed or leased by the Unit Owner to which it is assigned.
- (d) Only one (1) additional garage space can be assigned to a particular Unit and/or Unit Owner.
- (e) Upon termination of an assignment, for whatever reason, the Board of Managers shall re-assign such garage space to another Unit on the basis of a master list. This list shall be a chronological listing specifying Unit Owners who have requested a garage space in writing and the date on which such request is received. The garage space shall be assigned to the Unit Owner whose name has been on the list the longest period of time and who has not been assigned a garage space. The Unit Owner's name shall be deleted from such list when such garage space is assigned.

ARTICLE IX

USE OF COMMON AREAS AND FACILITIES

9.01 Each Unit Owner shall own an undivided interest in the Common Areas and Facilities as a tenant in common with all other such Unit Owners and, except as otherwise limited in this Declaration and in the By-Laws attached hereto as Exhibit "C", shall have the right to use the Common Areas and Facilities for all purposes incident to the use and occupancy of his Unit as a place of residence and such other incidental uses as permitted by this Declaration and the By-Laws, including the non-exclusive easement, together with other Unit Owners to the use and enjoyment of the Common Areas and Facilities and for ingress and egress to and from their respective Units, which right shall be appurtenant to and shall run with his Unit. The extent of such ownership in the Common Areas and Facilities is hereby deemed and expressed by the percentage amount set forth in Article X hereof, which shall remain constant and shall not be changed except by an amendment to this Declaration pursuant to the provisions of Section 10.03 and Article XIV.

ARTICLE X
OWNERSHIP OF COMMON AREAS AND FACILITIES

10.01 Percentage of Ownership. Unless or until amended, the percentage of ownership of the Common Areas and Facilities attributable to the ownership interest in each Unit and for the division of common profits, common surplus and common expenses, is as follows:

<u>Unit No.</u>	<u>Percentage of Ownership</u>	<u>Unit No.</u>	<u>Percentage of Ownership</u>
101	4.16 2/3	137	4.16 2/3
102	4.16 2/3	138	4.16 2/3
103	4.16 2/3	139	4.16 2/3
104	4.16 2/3	140	4.16 2/3
205	4.16 2/3	241	4.16 2/3
206	4.16 2/3	242	4.16 2/3
207	4.16 2/3	243	4.16 2/3
208	4.16 2/3	244	4.16 2/3
309	4.16 2/3	345	4.16 2/3
310	4.16 2/3	346	4.16 2/3
311	4.16 2/3	347	4.16 2/3
312	4.16 2/3	348	4.16 2/3

10.02 Computation. Each Unit's percentage of ownership as herein set forth, was determined by comparing the square footage of such Unit to the total square footage of all of the Units on the date when this Declaration is filed for record, or stated in another way, the percentage of ownership of a particular Unit is equal to a fraction, the numerator of which is the square footage of such Unit and the denominator of which is the total square footage of all of the Units.

10.03 Amendment. Except as provided for in Article XXII hereof, the percentage of ownership as herein set forth shall not be altered except by an amendment to the Declaration unanimously approved by all Unit Owners.

ARTICLE XI
REGULATION OF COMMON AREAS AND FACILITIES

11.01 No person shall use the Common Areas and Facilities or any part thereof in any manner contrary or not in accordance with such rules and regulations pertaining thereto as from time to time may be adopted by the Board of Managers of the Association. Without in any manner intending to limit the generality of the foregoing, the Board of Managers shall have the right, but not the obligation, to promulgate rules and regulations limiting the use of the Common Areas and Facilities by members of the Association and their respective employees, invitees and servants.

ARTICLE XII
RESTRICTIONS ON THE USE OF CONDOMINIUM PROPERTY

12.01 Obstruction of Common Areas and Facilities. There shall be no obstruction of the Common Areas and Facilities nor shall anything be stored in the Common Areas and Facilities without the prior consent of the Board of Managers of the Association, except as hereinafter expressly provided. Each Unit Owner shall be obligated to maintain and keep in good order and repair his own Unit.

12.02 Hazardous Uses and Waste. Nothing shall be done or kept in any Unit or in the Common Areas and Facilities which will increase the rate of insurance of the building or contents thereof applicable for residential use, without the prior written consent of the Board of Managers of the Association. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Areas and Facilities which will result in the cancellation of insurance on the building or contents thereof, or which would be in violation of any law. No waste will be committed in the Common Areas and Facilities.

12.03 Exterior Surfaces. Nothing shall be permitted to be hung, displayed or stored on the outside walls of a building or on the exterior walls of patios and/or decks or otherwise outside of a Unit, and no sign, awning, canopy, shutter, radio or television antenna, disc (communication, television or otherwise), or any other device or ornament shall be affixed to or placed upon the exterior surfaces of any building, or otherwise on any area visible to the public, other than as may be authorized by the Design Review Committee.

12.04 Windows and Doors. Nothing shall be permitted to be hung or displayed on the inside of windows or doors which are visible from the outside, or on the outside of windows or doors other than as may be authorized by the Design Review Committee.

12.05 Animals. Except as hereinafter provided, no animals, livestock or poultry of any kind shall be raised, bred or kept in a Unit or part of the Condominium Property. Notwithstanding the foregoing, household domestic pets, not in excess of the total of two (2), not bred or maintained for commercial purposes, may be maintained in a Unit provided that:

- (a) No such animal shall be permitted on any portion of the Common Area and Facilities, except on a leash maintained by a responsible person.
- (b) The owner of any animal is responsible for the immediate removal of any animal waste.
- (c) The Master Association, through its Board of Trustees, may establish Master Rules and Regulations controlling the maintenance of such animals.
- (d) The right by the Board of Managers or the Board of Trustees of the Master Association to terminate such right if either determines, in their absolute discretion, that the maintenance of the animal constitutes a nuisance.

12.06 Nuisances. No noxious or offensive activity shall be carried on in any Unit or in the Common Areas and Facilities nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Owners or occupants.

12.07 Impairment of Structural Integrity of Building. Nothing shall be done in any Unit or in, on or to the Common Areas and Facilities which will impair the structural integrity of the building or which would change the building.

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

12.09 Lounging or Storage in Common Areas and Facilities. There shall be no playing, lounging, parking of campers or boats, inoperable vehicles, trucks, motorcycles, baby carriages, playpens, bicycles, wagons, toys, vehicles, benches or chairs on any part of the Common Areas and Facilities except in accordance with rules and regulations therefor adopted by the Board of Managers.

12.10 Prohibited Activities. No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designated for profit, altruism, exploration or otherwise, designated for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted on any part of the Condominium Property.

12.11 Signs. Except for signs used by Declarant or its agents for promotional and sales purposes, no signs of any kind shall be displayed to the public view on the Condominium Property, except those permitted under and/or subject to either the Master Rules and Regulations and/or Design Guidelines.

12.12 Alteration of Common Areas and Facilities. Nothing shall be altered, constructed in, or removed from the Common Areas and Facilities except as hereinafter provided, and except upon the written consent of the Board of Managers. The Board of Managers may delegate their authority hereunder to an architectural review committee.

12.13 Rental of Units. No Unit shall be rented or leased unless:

- (a) The lease or rental agreement is in writing.
- (b) The term is of at least six (6) months in duration.
- (c) The lease or rental agreement specifically provides the terms thereof and the tenancy thereby created, and shall be subject in all respects to the terms of the Declaration and the Master Declaration, and any exhibits thereto, and that failure to comply therewith shall be a default under such lease or rental agreement.

A Unit Owner shall provide the Association with a fully executed copy of any lease or rental agreement entered into for the lease or rental of any Unit prior to the commencement of such lease or rental term. The Association shall promptly furnish a copy thereof to the Master Association. The Master Association, through its Board of Trustees, shall have the right to adopt a uniform lease form to be utilized for the rental or lease of any Unit.

12.14 Garbage and Refuse Disposal. No part of the Condominium Property shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

12.15 Water Supply. No individual water supply system shall be permitted on the Condominium Property.

12.16 Sewage Disposal. No individual sewage disposal system shall be permitted on the Condominium Property.

12.17 Rules and Regulations. The Board of Managers may establish and enforce rules and regulations as to the use of the Common Areas and Facilities, provided however, that such rules and regulations shall not conflict with, minimize or abrogate any provision of the Master Declaration or the Master Rules and Regulations.

12.18 Declarant. Notwithstanding the above, the Declarant may do what is reasonably necessary to complete the additional buildings on the Additional Property, including the storage of construction materials, construction office on location, and what is reasonably necessary to promote and sell the Units thereon constructed.

ARTICLE XIII UNIT OWNERS' ASSOCIATION

13.01 General. Declarant has caused to be formed an Ohio not-for-profit corporation called Ashton Gardens Condominium Association, Inc. which shall administer the Condominium Property. Such Association shall be governed by this Declaration and its By-Laws which are attached hereto as Exhibit "C". A Board of Managers and the officers of the Association elected as provided by the By-Laws shall exercise the powers, discharge the duties, and be vested with the rights conferred by operation of law, by the By-Laws and by this Declaration, upon the Association, except as otherwise specifically provided; provided, however, that in the event any such power, duty or right shall be deemed exercisable or dischargeable by or vested in an officer or member of the Board of Managers, he shall be deemed to act in such capacity to the extent required to authenticate his acts and to carry out the purposes of this Declaration and the By-Laws attached hereto as Exhibit "C".

13.02 Membership in the Association. Membership in the Association is limited to Unit Owners. Each Unit Owner, upon acquisition of title to a Unit, shall automatically become a member of the Association. Such membership shall terminate upon the sale or other disposition by such member of Condominium Ownership Interest, at which time the new Owner of such Unit automatically shall become a member of the Association. Declarant shall be a member of such Association as long as it retains title to any Unit. Each Unit Owner shall be entitled to one (1) vote in the Association for each Unit owned.

13.03 Administration of Condominium Property. The administration of the Condominium Property shall be in accordance with the provisions of this Declaration and the By-Laws of the Association which are attached hereto as Exhibit "C". Each Owner, tenant or occupant of a Unit shall comply with the provisions of this Declaration, the By-Laws, decisions and resolutions of the Association or its representatives, as lawfully amended from time to time, and failure to comply with any such provisions, decisions or resolutions shall be grounds for an action to recover sums due for damages or for injunctive relief.

13.04 Service of Process. The person to receive service of process for the Association shall be the president of the Association. Until such time as a president is elected, service may be made upon Hans H. Soltau, 124 East Third Street, Suite 300, Dayton, Ohio 45402.

13.05 First Meeting of Association. A first meeting of the Association shall be held no later than the date on which twenty-five percent (25%) of the Condominium Ownership Interests have been sold and conveyed by the Declarant. The purpose of such meeting shall be to elect two (2) members to the Board of Managers from Unit Owners, other than Declarant.

13.06 Declarant's Rights. Until such time as Declarant shall have sold and conveyed seventy-five percent (75%) of the Condominium Ownership Interests, or for a period of five (5) years from the date on which this Declaration is filed for record, whichever first occurs, the powers, rights, duties and functions of the Association shall be exercised by a Board of Managers selected by the Declarant; provided, however, that no later than the date on which twenty-five percent (25%) of the Condominium Ownership Interests have been sold and conveyed by Declarant, two (2) members shall be elected by the Unit Owners, other than Declarant, pursuant to Section 13.05.

13.07 Computation. For purposes of Sections 13.05 and 13.06, the percentages of Condominium Ownership Interests sold and conveyed by Declarant shall be determined by comparing the Condominium Ownership Interests sold and conveyed to the total number of Condominium Ownership Interests created and which may be created pursuant to Article XXII.

13.08 Turnover. Within thirty (30) days after the expiration of any period during which the Developer exercises control over the Association, pursuant to Section 13.06, the Association shall meet and elect all members of the Board of Managers and all other officers of the Association. The persons so elected shall take office immediately from such election. After said meeting, the Declarant shall deliver to such Board of Managers or officers, correct and complete books and records of account as provided by the By-Laws and Section 5311.09(A) of the Ohio Revised Code.

20% - 6 units
75% - 16 units
Letur

ARTICLE XIV
AMENDMENT OF DECLARATION AND BY-LAWS

14.01 General. Unless otherwise specifically provided for herein, this Declaration and the By-Laws may be amended only upon the affirmative vote of the Unit Owners entitled to exercise at least seventy-five percent (75%) of the voting power of the Association. Any amendment of this Declaration or the By-Laws must be filed for record with the Recorder of Montgomery County, Ohio. Such amendment must be executed with the same formalities as this instrument and must refer to the microfiche number in which this instrument and its attached exhibits are recorded.

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

14.03 Declarant's Rights. Any amendment affecting any rights granted or reserved to the Declarant by the Declaration or By-Laws shall require the written consent of the Declarant.

14.04 Master Declaration. Any amendment affecting any of the provisions of the Master Declaration shall require the written consent of the Master Association.

ARTICLE ^{XV}~~XIV~~

MANAGEMENT, MAINTENANCE, REPAIRS, ALTERATIONS AND IMPROVEMENTS ✓

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

15.02 Delegation to Managing Agent. The Association may delegate all or any portion of its authority to discharge its responsibility pursuant to Section 15.01 to a manager or managing agent, subject to the limitations that:

- (a) Any such delegation be by a written contract with a term of no longer than one (1) year in duration;
- (b) That any such contract be terminable by either party without cause upon sixty (60) days written notice without any termination charges or other penalties;

- (c) That any such contract entered into by the Declarant prior to the time it releases or relinquishes control of the Association shall terminate when the Declarant releases or relinquishes such control unless such contract is renewed by a vote of the Unit Owners at the meeting called for the purpose of turning over control of the Association.

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

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

- (a) To maintain, repair and replace, at his expense, all portions of his Unit and all internal installations of such Unit such as appliances, heating, plumbing, electrical and air conditioning fixtures or installations, and any portion of any other utility service facilities located within the Unit boundaries and which exclusively serve such Unit.
- (b) To maintain those areas which are designated by this Declaration as Limited Common Areas and Facilities for the exclusive use of such Unit Owner.
- (c) To maintain the air conditioning pad, compressor, duct and conduits thereto which are designated by this Declaration as Limited Common Areas and Facilities for the exclusive use of such Unit Owner.
- (d) To maintain, repair and replace, at his expense, all portions of the Common Areas and Facilities which may be damaged or destroyed by reason of the willful or uninsured negligent act or neglect of himself, or by the willful or uninsured negligent act or neglect of any invitee, licensee or guest of such Owner.
- (e) To maintain and repair all windows and doors of his Unit and of all associated structures and fixtures therein which are appurtenances to his Unit. The foregoing includes, without limitation, responsibility for all breakage, damage, malfunctions and ordinary wear and tear of such appurtenances.
- (f) To perform his responsibilities in such a manner so as not to unreasonably disturb other persons residing within the building.
- (g) Not to paint or otherwise decorate so as to change the appearance of any portion of the building not within the walls of the Unit unless the written consent of the Board of Managers of the Association is obtained.

- (h) To promptly report to the Association or its Agent any defect or need for repairs, the responsibility of which is with the Association.
- (i) Not to make any alterations in the portions of the Unit or the building which are to be maintained by the Association or remove any portion thereof or make any addition thereto, or do anything which would or might jeopardize or impair the safety or soundness of the building, without first obtaining the written consent of the Board of Managers of the Association and of the Owner or Owners of whose benefit such easement exists.

15.05 Master Declaration. The obligations and responsibilities herein are subject to the rights of the Master Association through its Design Review Committee to adopt maintenance standards pertaining to the maintenance and appearance of the Condominium Property.

15.06 Master Association. Subject to the provisions hereof, the Master Association can act and function as the Manager or Managing Agent of the Association.

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

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

ARTICLE XVI

EASEMENTS

16.01 Encroachments. In the event that by reason of the construction, settlement or shifting of the building or by reason of the partial or total destruction and rebuilding of the building, any part of the Common Areas and Facilities presently encroaches or shall hereafter encroach upon any part of the Common Areas and Facilities, or if by reason of the design or construction of any Unit it shall be necessary or advantageous to an Owner to use or occupy for formal uses and purposes any portions of the Common Areas and Facilities consisting of unoccupied space within the building and adjoining his Unit, or if by reason of the design or construction of utility systems, any main pipes, ducts or conduits serving either any other Unit or more than one Unit, presently encroaches or shall hereafter encroach upon any part of any Unit, then valid easements for the maintenance of such

encroachment and for the use of such adjoining space are hereby established and shall exist for the benefit of such Unit and the Common Areas and Facilities, as the case may be, so long as all or any part of the building containing such Unit shall remain standing; provided, however, that no valid easement for any encroachment shall be created in favor of the Owner of any Unit or in favor of the Common Areas and Facilities, if such encroachment is caused by the willful conduct of said Owner.

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

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

16.04 Easements for Certain Utilities and Cable Television. The Association may hereafter grant easements on behalf of Unit Owners to entities for utility and cable television purposes for the benefit of the Condominium Property. Each Unit Owner hereby grants, and the transfer of title to a Unit Owner shall be deemed to grant the Association an irrevocable power of attorney to execute, acknowledge and record, for and in the name of such Unit Owner, such instruments as may be necessary to effectuate the foregoing.

16.05 Easements for Construction. Declarant hereby reserves for itself a right and easement to enter upon the Common Areas and Facilities to do all things necessary to complete construction and to complete development of the Condominium Property, including the Additional Property.

16.06 Tie-In Easements. Declarant reserves the right and easement over, on and under the Common Areas and Facilities to use, tie into and extend all existing utility lines for purposes of serving the Additional Property and any other adjoining property which it may own or acquire during the period in which it has the right to add the Additional Property.

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

16.08 Water Easement. The Association shall have a right and easement to the exterior water taps or faucets of any Unit for the purpose of watering any Common Areas and Facilities landscaping; provided, however, that such use shall be reasonable and the Association shall reimburse the Unit Owner for any excessive use of water.

16.09 Additional Property Easement. Declarant hereby reserves a right to grant and/or reserve an easement for ingress and egress over and through the Common Areas and Facilities for itself and for the benefit of any subsequent owner or owners of part of all of the Additional Property.

16.10 Adjoining Property Easement. Declarant has a right to acquire certain property adjoining the Condominium Property and the Additional Property and does hereby reserve for itself, in the event it acquires such property, the right to grant and/or reserve an easement for ingress and egress over and through the Common Areas and Facilities for itself and for the benefit of any subsequent owner or owners of such property. Such right and reservation shall continue and survive for the period of time in which Declarant has the right to add the Additional Property.

16.11 Master Declaration. The Condominium Property is subject to the easements provided for and reserved in the Master Declaration.

16.12 Consent to Easements. Each Unit Owner hereby grants and the transfer of title to a Unit Owner shall be deemed to grant the Declarant an irrevocable power of attorney to execute, acknowledge and record for and in the name of such Unit Owner, and his mortgagee or mortgagees, such instruments as may be necessary to effectuate any easements granted or reserved by the Declarant in this Article.

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

ARTICLE XVII

HAZARD INSURANCE

17.01 Fire and Extended Coverage Insurance. The Association shall obtain and maintain for the benefit of all Owners and mortgagees, insurance on all buildings, structures or other improvements now or at any time hereafter constituting a part of the Condominium Property against loss or damage by fire, lightning and such perils as are at this time comprehended within the term "extended coverage", with no co-insurance and in an amount not less than one hundred percent (100%) of the replacement value thereof. In the event such policy contains co-insurance provisions, such policy shall contain an agreed amount endorsement. Such insurance shall be written in the name of, and the proceeds thereof shall be payable

to, the Association for each of the Unit Owners and mortgagees for the purposes set forth in Article XVII in accordance with the Percentage of Ownership in the Common Areas and Facilities set forth in Section 10.01. The policy providing such coverage shall provide that no mortgagee shall have any right to apply the proceeds thereof to the reduction of any mortgage debt. Said policy shall also provide that despite any clause that gives the insurer the right to restore damage in lieu of a cash settlement, such right shall not exist in case the Condominium Property is removed from the provisions of Chapter 5311 of the Ohio Revised Code pursuant to the provisions of this Declaration. Such policy shall provide coverage for built-in installed fixtures and equipment in an amount not less than one hundred percent (100%) of the replacement value thereof, and shall also provide that the insurer shall have no right to contribution from any insurance which may be purchased by any Unit Owner as hereinafter permitted.

No Unit Owner may purchase an individual policy of fire and extended coverage insurance for his Unit or his interest in the Common Areas and Facilities as real property. If irrespective of this prohibition a Unit Owner purchases an individual policy insuring such Unit or interest, said Owner shall be responsible to the Association for any loss or expense that such policy may cause in adjusting the Association's insurance and such amount of loss shall be a lien on his Unit and enforced in the manner provided for in Section 21.04.

Such policy of insurance shall contain provisions requiring the issuance of certificates of coverage and the issuance of written notice not less than ten (10) days prior to any expiration or cancellation of such coverage to any mortgagee or mortgagees of any Unit.

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

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

17.02 Sufficient Insurance. In the event the improvements forming a part of the Condominium Property or any portion thereof shall suffer damage or destruction from any cause or peril insured against and the proceeds of any policy or policies insuring against such loss or damage and payable by reason thereof shall be sufficient to pay the cost of repair or restoration or reconstruction, then such repair, restoration or reconstruction shall be undertaken by the Association and the insurance proceeds shall be applied by the Association in payment therefor; provided, however, that in the event, within thirty (30) days after such damage or

destruction, the Unit Owners, if they are entitled to do so pursuant to Section 17.07, shall elect to sell the Condominium Property or to withdraw the same from the provisions of this Declaration, then such repair, restoration or reconstruction shall not be undertaken.

17.03 Insufficient Insurance. In the event the improvements forming a part of the Condominium Property or any portion thereof shall suffer damage or destruction from any cause or peril which is not insured against, or if insured against the insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration or reconstruction thereof, unless the Unit Owners shall within ninety (90) days after such damage or destruction, if they are entitled to do so pursuant to Section 17.07, elect to withdraw the property from the provisions of this Declaration, such repair, restoration or reconstruction of the Units so damaged or destroyed shall be undertaken by the Association at the expense of all the Owners of Units in the same proportions in which they shall own the Common Areas and Facilities. Should any Unit Owner refuse or fail, after reasonable notice, to pay his share of such cost in excess of available insurance proceeds, the Association shall be assessed to such Owner and such assessments shall have the same force and effect and, if not paid, may be enforced in the same manner as hereinbefore provided for the non-payment of assessments.

17.04 Procedure for Reconstruction or Repair. Immediately after a casualty causing damage to any portion of the Condominium Property the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Managers deems necessary.

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

Each Unit Owner shall be deemed to have delegated to the Board of Managers his right to adjust with insurance companies, all losses under the insurance policies referred to in Section 17.01.

17.05 Insurance Trustee. At the option of the Declarant, or upon the written request by any lending institution holding mortgages on over fifty-one percent (51%) of the Units, or by any group of lending institutions who, in the aggregate, hold mortgages on over fifty-one percent (51%) of the Units, the Association shall select an Insurance Trustee for the purposes herein set forth.

The Trustee shall be selected by the Association from any bank located in Dayton, Ohio with trust powers and total assets of more than Fifty Million Dollars. If such selection is prior to any loss, the Association shall make all insurance policies under Section 17.01 payable to such Insurance Trustee for and on behalf of each of

the Unit Owners and mortgagees for the purposes set forth in Article XVII in accordance with the Percentage of Ownership in the Common Areas and Facilities set forth in Section 10.01. All insurance policies shall be deposited with the Insurance Trustee who must first acknowledge that the policies and any proceeds thereof will be held in accordance with the terms hereof.

If such selection of an Insurance Trustee is after a loss, the Association shall pay over to the Insurance Trustee any funds received under such insurance policies and resulting from any special assessments against the Unit Owners. Said funds are to be held by the Insurance Trustee in accordance with the provisions hereof.

The Insurance Trustee shall not be liable for payment of premiums, nor for the renewal of the policies, nor for the form or contents of the policies, nor for the failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein and for the benefit of the Association, the Unit Owners and their respective mortgagees.

17.06 Procedure for Reconstruction or Repair if an Insurance Trustee Has Been Selected. The insurance proceeds and the sums deposited with the Insurance Trustee by the Association from collections of special assessments against Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed to the Insurance Trustee and be applied by the Insurance Trustee to the payment of the cost of reconstruction and repair of the Condominium Property from time to time as the work progresses, but not more frequently than once in any calendar month. Said Trustee shall make such payments upon the written request of the Association, accompanied by a certificate dated not more than fifteen (15) days prior to such request, signed by a responsible officer of the Association and by an architect in charge of the work who shall be selected by the Association, setting forth: (a) that the sum then requested either has been paid by the Association or is justly due to contractors, subcontractors, materialmen, architects or other persons who have rendered services or furnished materials in connection with the work, giving a brief description of the services and materials, and that the sum requested does not exceed the value of the services and materials described in the certificate; (b) that except for the amount stated in such certificate to be due as aforesaid and for work subsequently performed, there is no outstanding indebtedness known to the person signing such certificate after due inquiry which might become the basis of a vendor's, mechanic's, materialman's or similar lien arising from such work; and (c) that the cost, as estimated by the person signing such certificate, of the work remaining to be done subsequent to the date of such certificate, does not exceed the amount of the construction fund remaining in the hands of the Insurance Trustee after the payment of the sum so requested. It shall be presumed that the first monies disbursed in payment of such costs of reconstruction and repair shall be from insurance proceeds and if there is a balance in any construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be disbursed to the Association.

The Insurance Trustee may rely upon a certificate of the Association certifying as to whether or not the damaged property is to be reconstructed or repaired. The Association, upon request of the Insurance Trustee, shall deliver such certificate as soon as practical.

17.07 Non-Restoration of Damage or Destruction. In the event of substantial damage to or destruction of two-thirds (2/3) or more of the Units, the Unit Owners, by the affirmative vote of those entitled to exercise not less than seventy-five percent (75%) of the voting power, may elect not to repair or restore such damage or destruction. Upon such election, all of the Condominium Property shall be subject to an action for sale as upon partition at the suit of any Unit Owners. In the event of any such sale or a sale of the Condominium Property after such election by agreement of all Unit Owners, the net proceeds of the sale, together with the net proceeds of insurance, if any, and any other indemnity arising because of such damage or destruction, shall be considered as one fund and shall be distributed to all Unit Owners in proportion to their respective Percentages of Interest in the Common Areas and Facilities. No Unit Owner, however, shall receive any portion of his share of such proceeds until all liens and encumbrances on his Unit have been paid, released or discharged.

17.08 Master Association. The Association may delegate its functions pursuant to this Article to the Master Association.

ARTICLE XVIII

LIABILITY AND OTHER INSURANCE

18.01 Liability Insurance. The Association, as a Common Expense, shall insure itself, the Board of Managers, all Unit Owners and members of their respective families and other persons residing with them in the Condominium Property, their tenants, and all persons lawfully in the possession or control of any part of the Condominium Property, against liability for bodily injury, disease, illness or death and for injury to or destruction of property occurring upon, in or about, or arising from destruction of property occurring upon, in or about, or arising from the Common Areas and Facilities; such insurance to afford protection to a limit of not less than One Million Dollars (\$1,000,000.00) in respect to bodily injury, disease, illness or death suffered by any one person, and to the limit of not less than One Million Dollars (\$1,000,000.00) in respect to any one occurrence, and to the limit of not less than One Hundred Thousand Dollars (\$100,000.00) in respect to damage to or destruction of property arising out of any one accident.

Such policy shall not insure against liability for personal injury or property damage arising out of or relating to the individual units or Limited Common Areas appertaining thereto.

18.02 Other Insurance. The Association, as a Common Expense, shall also obtain such additional insurance as the Board of Managers considers necessary, including without limitation, fidelity bonds for anyone who either handles or is responsible for funds held or administered by the Association.

The amount of such fidelity bond shall be equal to, at a minimum, the maximum funds that will be in the custody of the Association at any time such bond is in effect. In addition, such fidelity bond coverage must equal the sum of three (3) months assessments on the Units in the Condominium, together with the reserve funds, if any.

18.03 Notice of Cancellation or Substantial Changes. Any insurance coverage obtained by the Association shall contain a provision regarding the insurer to notify the Association and any mortgagee named in the mortgage clause, if applicable, in writing of the cancellation or a substantial change of coverage at least ten (10) days prior to such cancellation or substantial change.

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

18.05 Master Association. The Association may delegate its functions pursuant to this Article to the Master Association.

ARTICLE XIX

REHABILITATION AND RENEWAL OF OBSOLETE PROPERTY

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

ARTICLE XX

REMEDIES FOR BREACH OF COVENANTS AND RESTRICTIONS

20.01 Abatement and Enjoinment. The violation of any restriction or condition or regulation adopted by the Board of Managers of the Association, or the breach of any covenant or provision contained in this Declaration or in the By-Laws of the Association shall give the Board of Managers the right, in addition to the rights hereinafter set forth in this section: (a) to enter upon the land or Unit portion thereof upon which, or as to which such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions of this Declaration and the By-Laws of the Association and the Board of Managers, or its Agent, shall not be thereby deemed guilty in any manner of

trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

20.02 Involuntary Sale. If any Owner, either by his own conduct or by the conduct of any other occupant of his Unit, shall violate any of the covenants or restrictions or provisions of this Declaration, or of the By-Laws of the Association, or the regulations adopted by the Board of Managers of the Association, and such violation shall continue for thirty (30) days after notice in writing from the Board of Managers, or shall occur repeatedly during any thirty (30) day period after written notice or request from the Board of Managers to cure such violation, then the Board of Managers shall have the power to issue to the defaulting Owner a ten (10) day notice in writing to terminate the rights of the said defaulting Owner to continue as an Owner and to continue to occupy, use or control his Unit, and thereupon an action in equity may be filed by the Board of Managers against the defaulting Owner for a decree of mandatory injunction against the Owner or occupant or, subject to the prior consent in writing of any mortgagee having a security interest in the Unit ownership of the defaulting Owner, which consent shall not be unreasonably withheld, in the alternative a decree declaring the termination of the defaulting Owner's right to occupy, use or control the Unit owned by him on account of the breach of covenant, and ordering that all the right, title and interest of the Owner in the property shall be sold, subject to the lien of any existing mortgage, at a judicial sale upon such notice and terms as the court shall establish, except that the court shall enjoin and restrain the defaulting Owner from re-acquiring his interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, master's or commissioner's fees, and all other expenses of the proceedings, and all such items shall be taxes against the defaulting Owner in said decree. Any balance of proceeds after satisfaction of such charges and any unpaid assessments hereunder or any liens, other than that of the first mortgage, may be paid to the Owner. Upon the confirmation of such sale the purchaser thereat shall thereupon be entitled to a deed to the Unit ownership and to immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession and it shall be a condition of any such sale and the decree shall so provide that the purchaser shall take the interest in the property sold subject to this Declaration.

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

An action by the Unit Owners Association under this Article may be commenced by the Association in its own name or in the name of its Board of Managers or in the name of its Managing Agent.

ARTICLE XXI
ASSESSMENTS AND LIEN OF ASSOCIATION

21.01 General. Assessments for the maintenance, repair and insurance of the Common Areas and Facilities and for the insurance of the Units, together with the payment of the Common Expenses, shall be made in the manner provided herein and in the manner provided in the By-Laws.

21.02 Division of Common Profits and Common Expenses. The proportionate shares of the separate Unit Owners of the respective Units for the Common Profits and Common Expenses of the operation of the Condominium Property shall be in accordance with the percentages of interest appurtenant to their respective Units as set forth in Section 10.01.

21.03 Non-Use of Facilities. No Unit Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Areas and Facilities or by the abandonment of his Unit.

21.04 Acceleration and Late Charges. If any monthly or other assessments is not paid within ten (10) days after the same has become due, the Board of Managers, at its option, without demand or notice, may: (a) declare the assessment and if a monthly assessment such monthly assessment plus all monthly assessments remaining on the then current budget, immediately due and payable; and (b) charge a late charge not to exceed \$20.00 and/or interest on any unpaid balance at a rate equal to two percent (2%) above prime as being charged by The First National Bank, Dayton, Ohio, or any successor thereof.

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

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

21.06 Priority of Association's Lien. The lien provided for in Section 21.05 is prior to any lien or encumbrance subsequently arising or created except liens for real estate taxes and assessments and liens of bona fide first mortgages that have been filed for record, and may be foreclosed in the same manner as a mortgage on real property in an action brought on behalf of the Association by its President, pursuant to authority given to him by the Board of Managers. In the foreclosure

action the Owner of the Unit affected shall be required to pay a reasonable rental for the Unit during the pendency of the action, and the plaintiff in the action is entitled to the appointment of a receiver to collect the rental. In the foreclosure action the Association, duly authorized by action of its Board of Managers, is entitled to become a purchaser at the foreclosure sale.

21.07 Special Individual Unit Assessment. Notwithstanding anything to the contrary herein, if the Association shall incur any cost or expense, including without limitation filing fees and/or attorney's fees, for or on account of any item of maintenance, repair or other matter directly or indirectly occasioned or made necessary by any wrongful or negligent act or omission or failure to pay assessments or comply with the provisions of the Declaration or rules and regulations of and by any Owner or his invitees or lessees, such cost or expense shall be borne by such Owner and not by the Association, and if paid by the Association, shall be paid or reimbursed to the Association by such Owner as a special individual Unit assessment forthwith upon the Association's demand.

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

21.09 Non-Liability of Foreclosure Sale Purchaser or an Acquirer of Title in Lieu of Foreclosure for Past Due Common Expenses. Where the mortgagee of a first mortgage of record or other purchaser of a Unit acquires title to the Unit as a result of a foreclosure of any lien or a deed in lieu of foreclosure of the first mortgage, such acquirer of title, his successors and assigns shall not be liable for the share of Common Expenses or other assessments by the Association chargeable to such Unit which became due prior to the acquisition of title to such Unit by such acquirer. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from all of the Units, including that of such acquirer, his successors or assigns.

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

ARTICLE XXII
ADDITIONAL PROPERTY

22.01 Contemplated Annexation by Declarant. Declarant is the owner in fee simple of the Additional Property. It is the desire of the Declarant to submit the Additional Property, together with the buildings and other improvements to be constructed thereon, and all easements, rights and appurtenances belonging thereto, and all articles of personal property existing for the common use of the Unit Owners to the provisions of this Declaration and Chapter 5311 of the Ohio Revised Code, so that the same will become in all respects part of the Condominium Property.

22.02 Reservation of Option to Expand. Declarant hereby expressly reserves the option at any time within a period of seven (7) years, commencing on the date this Declaration is filed for record, to take the action so contemplated in submitting all or any part of the Additional Property which is more particularly described in the metes and bounds description set forth in Exhibit "D" attached hereto, together with the buildings and other improvements to be built thereon, and all easements, rights and appurtenances belonging thereto, and all articles of personal property existing for the common use of the Unit Owners to the provisions of this Declaration and Chapter 5311 of the Ohio Revised Code, so that the same will become, in all respects, part of the Condominium Property.

22.03 Limitations on Declarant's Option. Unless otherwise specified in this Article, there are no limitations on Declarant's option to annex or add the Additional Property to the Condominium Property. The consent of Unit Owners to annex or add such Additional Property is not required.

22.04 Additional Property. Declarant, in its absolute discretion, may annex or add all or any part of the Additional Property in whatever quantity, amount, sequence or order that it may determine. There are no limitations on Declarant as to the amount of the Additional Property to be added, the sequencing or order of such additions, nor as to the boundaries or size of such additions.

22.05 Location and Type of Improvements. Unless otherwise specified in this Article, there are no limitations imposed on Declarant as to the location of any improvements that may be made to any portion of the Additional Property, nor any restrictions as to the type and amount of improvements which must or may be made on the Additional Property by Declarant.

22.06 Structures. The structures to be constructed on the Additional Property shall be compatible with the existing structures on the Condominium Property in terms of quality of construction. The structures to be constructed on the Additional Property need not be compatible with the existing structures on the Condominium Property in terms of principal materials used, architectural style, size or elevation.

22.07 Units. There will be a maximum of forty-eight (48) Units constructed on the Additional Property, with a density not to exceed sixteen (16) Units per acre. Such Units need not be substantially identical to the Units constructed on the Condominium Property. Unless otherwise specified in this Article, there are no limitations imposed on Declarant as to the types of Units that may be created on the Additional Property.

22.08 Limited Common Areas and Facilities. Declarant reserves the right to designate any portion of the Additional Property as Limited Common Areas and Facilities for the use and enjoyment of any Unit or Units to be constructed thereon.

22.09 Reservation of Right to Amend Declaration. Declarant hereby reserves the right to amend this Declaration in such respects as Declarant may deem advisable in order to effectuate the generality of the foregoing, so as to: (a) include any or all of the Additional Property and the improvements which may be constructed thereon as part of the Condominium Property; (b) include descriptions of buildings constructed on said real estate and to add drawings thereof to the appropriate exhibits hereto; (c) provide that the Owners of Units in the buildings will have an interest in the Common Areas and Facilities of the Condominium Property; and (d) amend Article X so as to establish percentages of interest in the Common Areas and Facilities which the Owners of all Units within the buildings on the Condominium Property will have at the time of such amendment, which percentage shall be, with respect to each Unit, in the proportion that the square footage of each Unit at the date said amendment is filed for record bears to the then aggregate square footage of all of the Units within the Condominium Property, which determination shall be made by Declarant and shall be conclusive and binding upon all Unit Owners.

22.10 Consent and Approval for Annexation Amendments. Declarant, on its own behalf as the Owner of all Units in the Condominium Property and on behalf of all subsequent Unit Owners, hereby consents and approves, and each Unit Owner and his mortgagees by acceptance of a deed conveying such ownership, or a mortgage encumbering such interest, as the case may be, hereby consents and approves the provisions of this Article, including without limiting the generality of the foregoing, the amendment of this Declaration by Declarant in the manner provided in Section 22.11, and all such Unit Owners and their mortgagees, upon request of Declarant, shall execute and deliver from time to time all such instruments and perform all such acts as may be deemed by Declarant to be necessary or proper to effectuate said provisions.

22.11 Power of Attorney, Coupled With an Interest. Each Unit Owner and his respective mortgagees, by the acceptance of a deed conveying such ownership or a mortgage encumbering such interest, as the case may be, hereby irrevocably appoints Declarant his attorney-in-fact, coupled with an interest, and authorizes, directs and empowers such attorney, at the option of the attorney in the event that the Declarant exercises the rights reserved above to add to the Condominium Property additional property, to execute, acknowledge and record for and in the name of such Unit Owner, an amendment of this Declaration for such purpose and for and in the name of such respective mortgagees, a consent to such amendment.

22.12 Description. The Additional Property is described in Exhibit "D" attached hereto.

ARTICLE XXIII
LIMITED WARRANTIES BY DECLARANT

23.01 Two Year Limited Warranty. The Declarant does hereby give and grant a two (2) year limited warranty covering the full cost of labor and materials for any repair or replacement of the roof and structural components and mechanical, electrical, plumbing and common elements serving the Condominium Property, occasioned or necessitated by a defect in material or workmanship.

The two (2) year limited warranty shall commence for the property submitted by this Declaration on the date the deed is filed for record following the sale of the first Unit, and for any additional property submitted by amendment to this Declaration on the date the deed is filed for record following the sale of the first Unit; in either case, to a purchaser in good faith for value.

23.02 One Year Limited Warranty. The Declarant does hereby give and grant a one (1) year limited warranty covering the full cost of labor and materials for any repair or replacement of structural, mechanical or other elements pertaining to each Unit, occasioned or necessitated by a defect in material or workmanship performed by or for the Declarant.

The one (1) year limited warranty shall commence on the date the deed or other evidence of ownership is filed for record following the first sale of a Condominium Ownership Interest to a purchaser in good faith for value.

23.03 Appliances. In the case of ranges, refrigerators, washing machines, clothes dryers, hot water heaters and other similar appliances installed and furnished as a part of the Unit by the Declarant, the valid assignment by the Declarant of the express and implied warranty of the manufacturer satisfies the Declarant's obligation with respect to such appliances and the Declarant's warranty is limited to the installation of the appliances.

23.04 Assignment. All warranties made to the Declarant that exceed the time periods specified above with respect to any part of the Units or Common Areas and Facilities shall be assigned to the Owner or Association.

ARTICLE XXIV
MISCELLANEOUS PROVISIONS

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

24.02 Upon the removal of the Condominium Property from the provisions of Chapter 5311 of the Ohio Revised Code, all easements, covenants and other rights, benefits, privileges, impositions and obligations declared herein to run with the land or any Unit, shall terminate and be of no further force nor effect.

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

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

24.05 Upon written request to the Board of Managers, the holder of any duly recorded mortgage or trust deed against any Unit Ownership shall be given a copy of any and all notices and other documents permitted or required by the Declaration or the By-Laws to be given to the Owner or Owners whose Unit Ownership is subject to such mortgage or trust deed, and a copy of any lien filed by the Association.

24.06 That so long as said Declarant, his successors and assigns own one or more of the Units established and described herein, said Declarant, his successors and assigns shall be subject to the provisions of this Declaration and of Exhibits "A", "B", "C" and "D" attached hereto, and said Declarant covenants to take no action which would adversely affect the rights of the Association with respect to assurances against latent defects in the property or other right assigned to the Association by reason of the establishment of the Condominium.

24.07 Unless otherwise provided in this Declaration or by statute, neither Declarant nor his representatives, successors or assigns shall be liable for any claim whatsoever arising out of or by reason of any actions performed pursuant to any authorities granted or delegated to it by or pursuant to this Declaration or the By-Laws or in Declarant's capacity as Developer, contractor, owner, Manager or seller of the Condominium Property, whether or not such claim shall: (a) be asserted by any Unit Owner, occupant, the Association, or by any person or entity claiming through any of them; (b) be on account of injury to person or damage to or loss of property wherever located and however caused; or (c) arise ex contractu or, except in the case of gross negligence, ex delictu. Without limiting the generality of the foregoing, the foregoing enumeration includes all claims for or arising by reason of the Condominium Property or any part thereof being or becoming out of repair or containing any patent or latent defects, or by reason of any act or neglect of any Unit Owner, occupant, the Association and their respective Agents, employees, guests, invitees, or by reason of any neighboring property or personal property located on or about the Condominium Property.

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

24.09 The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the establishment and operation of a first class condominium development.

24.10 Any deposit or down payment made in connection with the sale of a Condominium Ownership Interest will be held in trust or escrow until delivered at settlement or returned to or otherwise credited to the purchaser or forfeited to the Developer, and that if a deposit or down payment of Two Thousand Dollars (\$2,000.00) or more is held for more than ninety (90) days, interest at the rate of at least four percent (4%) per annum for any period exceeding ninety (90) days shall be credited to the purchaser at settlement or upon return or other credit made to the purchaser or added to any forfeiture to the Developer.

24.11 Except in its capacity as a Unit Owner of unsold Condominium Ownership Interests, the Developer will not retain a property interest in any of the Common Areas and Facilities after control of the Condominium is assumed by the unit owners association.

24.12 The Developer will assume the rights and obligations of a Unit Owner in its capacity as Owner of Condominium Ownership Interests not yet sold, including without limitation, the obligation to pay Common Expenses, including reserves, attaching to such interests from the date the Declaration is filed for record.

24.13 Notwithstanding any provision of this Declaration or the By-Laws, the Declarant hereby reserves the right and power, and each Unit Owner by acceptance of a deed is deemed to and does give and grant to Declarant a power of attorney, which right and power is coupled with an interest and runs with title to the Unit and is irrevocable for a period of two (2) years from the filing date hereof, to amend this Declaration and any of its Exhibits and to execute any and all documents deemed necessary or desirable by Declarant to conform to requirements of any lending institution in order to issue a mortgage loan, or to correct scrivener or typographical mistakes.

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

24.15 The Condominium has been created and is existing in full compliance with the requirements of Chapter 5311 of the Ohio Revised Code, and all other applicable law.

Signed and acknowledged
in the presence of:

ASHTON GARDENS OF
LINCOLN PARK

Cynthia L. Perkins

By: Robert Arnold
Its Partner

Hans H. Soltau

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

The foregoing instrument was acknowledged before me this 12TH day of
NOVEMBER, 1987 by Robert Arnold, partner of Ashton Gardens of Lincoln
Park, an Ohio partnership, on behalf of the partnership.

Cynthia L. Perkins
Notary Public

CYNTHIA L. PERKINS, Notary Public
In and for the State of Ohio
My Commission Expires 12/31/1991

THIS INSTRUMENT PREPARED BY:

HANS H. SOLTAU
Attorney at Law
124 East Third Street
Dayton, Ohio 45402

TRANSFERRER
1987 NOV 19 PM 12:58
DANA A. LINDSEY
MONT. COUNTY ADULTS



ASHTON GARDENS CONDOMINIUMS
SECTION ONE
LINCOLN PARK CENTER
SECTION FOUR
NOVEMBER 11, 1987

Located in Section 29, Town 2, Range 6, M.R.S., City of Kettering, County of Montgomery, State of Ohio, and being a part of Lot No. 201 of Lincoln Park Center Section Four as recorded in Plat Book 128, Page 31 of the Plat Records of Montgomery County, Ohio, and being a tract of land described as follows:

Beginning in the east right-of-way line of Isaac Prugh Way and the northwest corner of said Lot No. 201, said corner also being the southeast corner of Lincoln Park Center Section Three Reserve Area "C" as recorded in Plat Book 127, Page 26 of the Plat Records of Montgomery County, Ohio:

thence with the line of Lincoln Park Center Section Three Reserve Area "C" and the line of Lot No. 201, North fifty-two degrees fifteen minutes five seconds (52-15'05") East for one hundred ninety-four and 89/100 (194.89) feet to a point;

thence on a new divide through Lot No. 201 for the following eight courses, South thirty-seven degrees forty-four minutes fifty-five seconds (37-44'55") East for one hundred thirteen and 73/100 (113.73) feet to a point;

thence South two degrees five minutes no seconds (02-05'00") East for ninety and 00/100 (90.00) feet to a point;

thence North eighty-seven degrees fifty-five minutes no seconds (87-55'00") East for one hundred eighty-seven and 35/100 (187.35) feet to a point;

thence South fifty-three degrees twenty-five minutes twenty-five seconds (53-25'25") East for sixty-four and 03/100 (64.03) feet to a point;

thence South two degrees five minutes no seconds (02-05'00") East for one hundred twenty-four and 80/100 (124.80) feet to a point;

thence South fifty degrees forty minutes fifty-five seconds (50-40'55") West for sixty-two and 80/100 (62.80) feet to a point;

thence South eighty-seven degrees fifty-five minutes no seconds (87-55'00") West for one hundred ninety-eight and 74/100 (198.74) feet to a point;

thence South one degrees thirty-one minutes forty seconds (01-31'40") West for one hundred fifty-one and 12/100 (151.12) feet to a point in the south line of said Lot No. 201, said point being also in the north line of a tract of land conveyed to Gem America Realty Investment Corp. as recorded in Microfiche 83-485B12 of the Deed Records of Montgomery County, Ohio;

thence with the north line of Gem America Realty Investment Corp. and the south line of said Lot No. 201, North eighty-eight degrees twenty-eight minutes twenty seconds (88-28'20") West for one hundred thirty-eight and 47/100 (138.47) feet to a point in the north right-of-way line of Lincoln Park Blvd. (Westbound);

thence on a curve to the right with a radius of twenty and 00/100 (20.00) feet for an arc distance of sixteen and 96/100 (16.96) feet, [long chord bearing North twenty-two degrees forty-five minutes forty-three seconds (22-45'43") West for sixteen and 45/100 (16.45) feet, central angle of said curve being forty-eight degrees thirty-four minutes forty-six seconds (48-34'46")] to a point in the east right-of-way line of Isaac Prugh Way and the west line of said Lot No. 201;

thence with the east right-of-way line of Isaac Prugh Way and the west line of said Lot No. 201, North one degrees thirty-one minutes forty seconds (01-31'40") East for one hundred fifty-six and 33/100 (156.33) feet to a point of curvature;

thence continuing with east right-of-way line of Isaac Prugh Way and the west line of said Lot No. 201, on a curve to the left with a radius of three hundred seventy-five and 00/100 (375.00) feet for an arc distance of two hundred fifty-seven and 06/100 (257.06) feet, [long chord bearing North eighteen degrees six minutes thirty-seven seconds (18-06'37") West for two hundred fifty-two and 06/100 (252.06) feet, central angle of said curve being thirty-nine degrees sixteen minutes thirty-five seconds (39-16'35")] to the point of beginning, containing two and 9335/10000 (2.9335) acres, more or less, subject however to all covenants, conditions, restrictions, reservations, and easements contained in any instrument of record pertaining to the above described tract of land.

ASTON GARDENS CONDOMINIUMS SECTION ONE

SECTION A (700) OF LOT 10, 6711
OF UNCLERK PARK CENTER SECTION FOUR RECORDED
IN PLAT BOOK 126, PAGE 31 OF MONTGOMERY COUNTY, AND

LOCATED IN
SECTION 28, TOWN 2, RANGE 9, N. W. S.
CITY OF PITTSBURGH

NORTHWEST COUNTY, MISSOURI
 CONTAINS 2,939.9 ACRES
 AUGUST, 1967. SCALE 1" = 40'

FOR THE
UNITED STATES
DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20535

Approved for description and ownership
 FRED F. FRECKER, P.E., P.S.
 PROJECT MANAGER
 DATE

for
CHERRY ST.

CONTRIBUTIONS

[illegible]

INDULPENT CONSULTANTS

14-17-87
Sergeant J. J. [illegible]



11-17-87
Robert F. Probstman
Civil Engineering Div. 22-048

To the undersigned body of the citizens and landholders of the within corporation, here submitted to freely acknowledge the receipt of the sum of _____ Dollars, the receipt of which the making and signing of this seems to be our voluntary act and deed.

Signed and acknowledged _____

in the presence of _____

WITNESSES

AMERICAN SCHOOLS OF LINCOLN P. _____

[Handwritten signatures]

[illegible]

State of Ohio, County of Hamilton, ss.: I, Henry George, duly sworn, depose and say that the within and foregoing is a true and correct copy of the original of the same as the same was read to and by the jury in the courtroom of the Hamilton County Court, at Hamilton, Ohio, on the 12th day of January, 1909.

H. G. Henry George
 J. C. Hamilton
 J. C. Hamilton

In testimony whereof, I have hereunto set my hand and official seal at Hamilton, Ohio, this 12th day of January, 1909.

J. C. Hamilton
 J. C. Hamilton

[illegible]

State of Ohio, County of Hamilton, s.s.,
do hereby certify that on this 24th day of October, 1917,
before me, the undersigned a Notary Public in and for said State,
personally appeared JOHN EDWARD AND ASSOCIATES by Richard K. Johnson
its Chairman, of the Board, who acknowledged that he said day and
before me, the undersigned, a Notary Public in and for said State,
in testimony whereof, I have hereunto set my hand and official seal
on this day and date above written.

Special and Personal
 Delivery to the
 Honorable Mr. Justice
 of the Peace

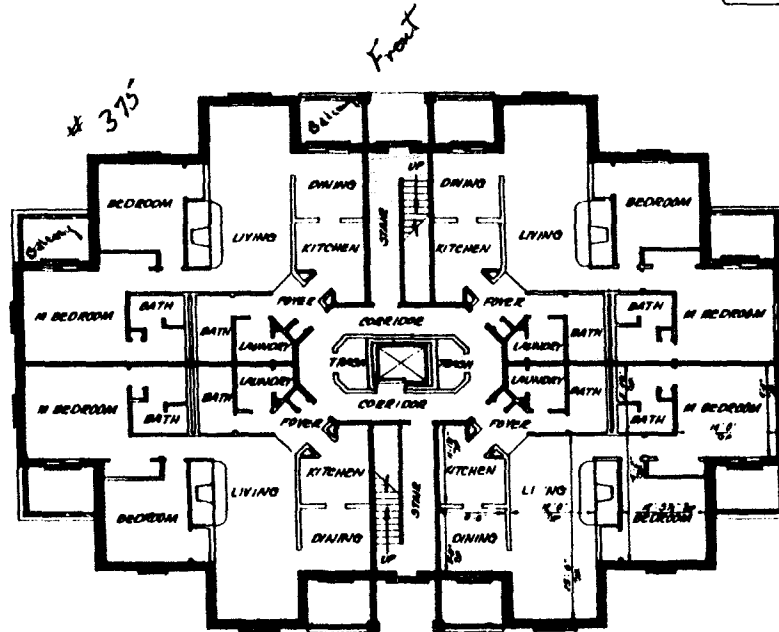
Created by _____ 010-18180-21 Sheet 1 of 4

ASHTON GARDENS CONDOMINIUMS SECTION ONE

BEING A PART OF LOT NO. 201,
OF LINCOLN PARK CENTER SECTION FOUR RECORDED
IN PLAT BOOK 128, PAGE 31 OF MONTGOMERY COUNTY, OHIO

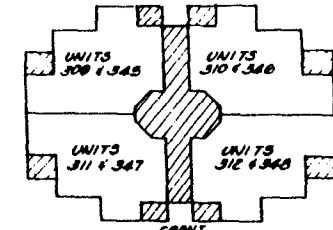
LOCATED IN
SECTION 28, TOWN 2, RANGE 6, W.R.S.
CITY OF KETTERING
MONTGOMERY COUNTY, OHIO
CONTAINING 2.0000 ACRES
AUGUST, 1967,

DESIGNED BY
WILLIAM F. BOWMAN, ARCHT.
ATLANTA, GA 30303

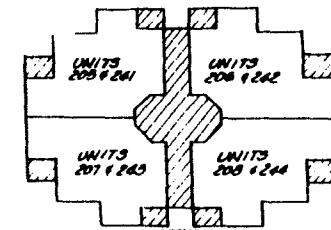


FLOOR PLAN FOR FIRST, SECOND & THIRD FLOORS
SCALE 1/8" = 1'-0"

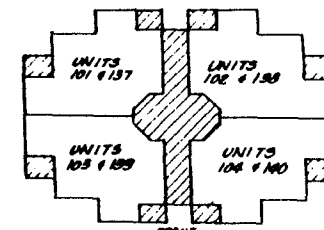
NOTE:
Buildings No. 1 and No. 2 are alike in
size and unit configuration.
All units on each floor of each building
are alike in size and room configuration.
Placement of the unit within the floor
plan requires the unit to be reversed, flipped,
or both.
All units contain 1182 square feet each.



THIRD FLOOR



SECOND FLOOR



FIRST FLOOR

Indicates Limited
Common Area

BUILDING NO. 1 - 781 ASHTON CIRCLE - UNITS 101 THRU 113
UNITS 200 THRU 212
UNITS 300 THRU 312
BUILDING NO. 2 - 700 ASHTON CIRCLE - UNITS 101 THRU 113
UNITS 200 THRU 212
UNITS 300 THRU 312

SCALE 1/8" = 1'-0"

Checked By: _____

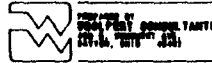
010-13100-22

Sheet 2 of 4

ASHTON GARDENS CONDOMINIUMS SECTION ONE

BEING A PART OF LOT NO. 201,
OF LINCOLN PARK CENTER SECTION FOUR RECORDED
IN PLAT BOOK 178, PAGE 31 OF MONTGOMERY COUNTY, OHIO

LOCATED IN
SECTION 28, TOWN 2, RANGE 6, W.R.S.
CITY OF KETTERING
MONTGOMERY COUNTY, OHIO
CONTAINING 2.000 ACRES
AUGUST, 1987.



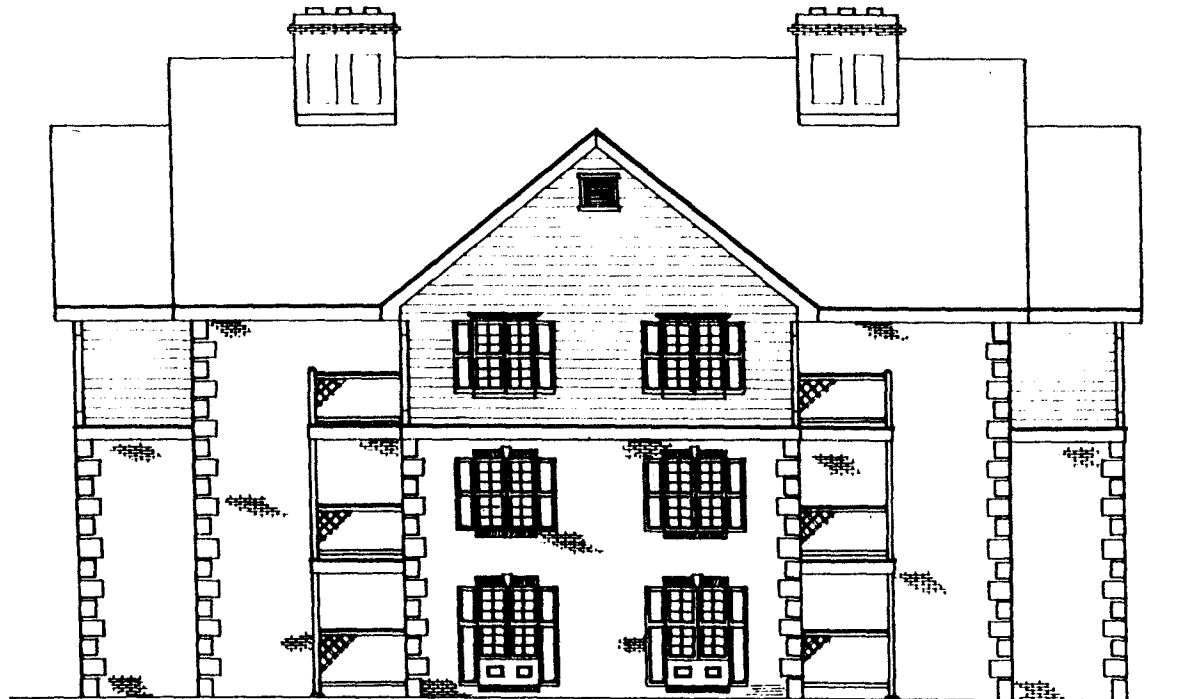
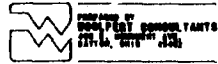
FRONT & REAR ELEVATION
SCALE 1/8" = 1'-0"

DEED 87-0691 A07

ASHTON GARDENS CONDOMINIUMS SECTION ONE

BEING A PART OF LOT NO. 201,
OF LINCOLN PARK CENTER SECTION FOUR RECORDED
IN PLAT BOOK 128, PAGE 31 OF MONTGOMERY COUNTY, OHIO

LOCATED IN
SECTION 28, TOWN 2, RANGE 8, W.R.S.
CITY OF KETTERING
MONTGOMERY COUNTY, OHIO
CONTAINING 2.0000 ACRES
AUGUST, 1987.



END ELEVATION
SCALE 1/8" = 1'-0"

EXHIBIT "C"

ASHTON GARDENS CONDOMINIUM ASSOCIATION, INC.

CONDOMINIUM ASSOCIATION BY-LAWS

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SERVING UNIT
MONT. COUNTY REC'D

BY-LAWS

Table of Contents

ARTICLE I	
THE ASSOCIATION	1
1.01 Name of Association	1
1.02 Membership	1
1.03 Voting Rights	1
1.04 Majority of Owners	1
1.05 Quorum	1
1.06 Proxies	2
1.07 Place of Meetings	2
1.08 First Meeting	2
1.09 Special Meetings	2
1.10 Notice of Meeting	2
1.11 Waiver of Notice	2
1.12 Action by Unanimous Written Consent of the Unit Owners	2
1.13 Order of Business	3
 ARTICLE II	
BOARD OF MANAGERS	3
2.01 Number and Qualification	3
2.02 Election of Managers	3
2.03 Vacancies During the Term	3
2.04 Term of Office; Resignation	3
2.05 Removal of Managers	4
2.06 Organization Meeting	4
2.07 Regular Meetings	4
2.08 Special Meetings	4
2.09 Board of Managers' Quorum	4
2.10 Action by Unanimous Written Consent of the Board of Managers	4
2.11 Fidelity Bonds	5
 ARTICLE III	
OFFICERS	5
3.01 Designation	5
3.02 Term of Office; Vacancies	5
3.03 President	5
3.04 Secretary	5
3.05 Treasurer	5

ARTICLE IV	
GENERAL POWERS OF THE ASSOCIATION	5
4.01 Payments from Maintenance Funds	5
(a) Utility Services for Common Areas and to Units when Measured by Common Meter	6
(b) Care of Common Areas and Facilities	6
(c) Care of Certain Limited Common Areas and Facilities	6
(d) Certain Maintenance of Units	6
(e) Casualty Insurance	6
(f) Liability Insurance	6
(g) Wages and Fees for Services	7
(h) Workmen's Compensation	7
(i) Discharge of Mechanic's Liens	7
(j) Additional Expenses	7
4.02 Capital Additions and Improvements	7
4.03 Rules and Regulations	7
4.04 No Active Business to be Conducted for Profit	8
4.05 Delegation of Duties	8
4.06 Right of Entry	8
4.07 Special Services	8
ARTICLE V	
DETERMINATION AND PAYMENT OF ASSESSMENTS	8
5.01 Obligation of Owners to Pay Assessments	8
5.02 Preparation of Estimated Budget	8
5.03 Reserve for Contingencies and Replacements	9
5.04 Limited Common Areas and Facilities Assessments	9
5.05 Periodic Assessments	9
5.06 Uniform Per Unit Expense	9
5.07 Budget for First Year	9
5.08 Failure to Prepare Annual Budget	10
5.09 Books and Records of the Association	10
5.10 Assessments	10
5.11 Audit	10
5.12 Remedies for Failure to Pay Assessments	10
ARTICLE VI	
GENERAL PROVISIONS	11
6.01 Requirement for Manager or Managing Agent	11
6.02 Copies of Notices to Mortgage Lenders	11
6.03 Service of Notices on the Board of Managers	11
6.04 Non-Waiver of Covenants	11
6.05 Agreements Binding	11
6.06 Severability	11

EXHIBIT "C"

CONDOMINIUM ASSOCIATION BY-LAWS

The within By-Laws are executed and attached to the Declaration of Condominium pursuant to Chapter 5311 of the Ohio Revised Code. Their purpose is to provide for the establishment of a Unit Owner's Association for the administration of the Condominium Property in the manner provided by the Declaration and by these By-Laws. All present or future owners or tenants or their employees, and any other person who might use the facilities of the Condominium Property in any manner shall be subject to any restrictions, conditions or regulations hereafter adopted by the Board of Managers of the Association. The mere acquisition or rental of any of the Units located within the Condominium Property described in the Declaration or the mere act of occupancy of any of the Units will constitute acceptance and ratification of the Declaration and of these By-Laws.

ARTICLE I

THE ASSOCIATION

1.01 Name of Association. The Association shall be an Ohio corporation, not-for-profit, and shall be called ASHTON GARDENS CONDOMINIUM ASSOCIATION, INC.

1.02 Membership. Each Unit Owner, upon acquisition of title to a Unit, shall automatically become a member of the Association. Such membership shall terminate upon the sale or other disposition by such member of his Unit, at which time the new owner of such Unit shall automatically become a member of the Association. Membership in the Association is limited to Unit Owners within the Condominium.

1.03 Voting Rights. There shall be one vote for each of the Units comprising the Condominium Property. The owner or owners of each Unit shall be entitled to one vote for their Unit. In the event a Unit has been acquired by the Association in its own name or in the name of its agent, designee or nominee on behalf of all Unit Owners, the voting rights of such Unit shall not be exercised so long as it continues to be so held. If two or more persons, whether fiduciaries, tenants in common or otherwise own undivided interests in a Unit, each may exercise the proportion of the voting power of all the owners of his Unit that is equivalent to his proportionate interest in the Unit.

1.04 Majority of Owners. As used in these By-Laws, the term "majority of owners" shall mean those Unit Owners holding fifty-one percent (51%) of the votes (13) in the Association.

1.05 Quorum. Except as otherwise provided in these By-Laws, the presence in person or by proxy of a majority of owners as defined in Section 1.04 shall constitute a quorum.

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

1.07 Place of Meetings. Meetings of the Association shall be held at such place upon the Condominium Property or at such other place as may be designated by the Board of Managers and specified in the notice of the meeting at 8:00 p.m., or at such other time as may be designated by the Board of Managers and specified in the notice of the meeting.

1.08 First Meeting. The first meeting of members of the Association shall be held within the time limits prescribed by the Declaration and shall be considered the first annual meeting.

1.09 Special Meetings. It shall be the duty of the President of the Association to call a special meeting of the owners as directed by resolution of the Board of Managers or upon a petition signed by a majority of the owners and having been presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of four-fifths (4/5) of the owners present, either in person or by proxy.

80%
present

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

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

1.12 Action by Unanimous Written Consent of the Unit Owners. Any action which may be authorized or taken at a meeting of the Unit Owners may be authorized or taken without a meeting in a writing or writings signed by all of the Unit Owners. The writing or writings evidencing such action taken by the unanimous written consent of the Unit Owners shall be filed with the records of the Association. Written notice of any action proposed to be taken by the unanimous written consent of the Unit Owners shall be sent to all persons entitled to notice under Section 6.03 of these By-Laws at least five (5) days prior to the circulation of the action for unanimous written consent among the Unit Owners and shall specify the action proposed to be so taken.

1.13 Order of Business. The order of business at all meetings of the Owners of Units shall be as follows:

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

ARTICLE II

BOARD OF MANAGERS

2.01 Number and Qualification. The affairs of the Association shall be governed by a Board of Managers composed of five (5) persons, all of whom must be owners of Units in the project or occupants of a Unit who are related to an owner by a marital or fiduciary relationship. If, at any one time one bank or lending institution shall hold mortgages upon more than fifty percent (50%) of the Units, such lending institution may designate its representative who shall be a fourth member of the Board of Managers. Such representative need not be an owner or occupier of a Unit.

2.02 Election of Managers. The required managers shall be elected at each annual meeting of members of the Association. Only persons nominated as candidates shall be eligible for election as managers and the candidates receiving the greatest number of votes shall be elected. Each member may vote for as many candidates as there are vacancies in the Board of Managers due to the expiration of their terms; provided, however that a vacancy in the position of a representative of a lending institution as provided in Section 2.01, if any, shall be filled by such lending institution.

2.03 Vacancies During the Term. In the event of the occurrence of any vacancy or vacancies on the Board during the term of such manager or managers, the remaining managers, though less than a majority of the whole authorized number of managers, may, by the vote of a majority of their number, fill any such vacancy for the unexpired term; provided, however that a vacancy in the position of a representative of a lending institution, as provided in Section 2.01, if any, shall be filled by such lending institution.

2.04 Term of Office; Resignation. Each manager shall hold office until his term expires or until his earlier resignation, removal from office or death. Any manager may resign at any time by oral statement to that effect made at a meeting of the Board of Managers or in a writing to that effect delivered to the Secretary of the Association; such resignation to take effect immediately or at such other time as the manager may specify. At the first annual meeting of the members of the Association the term of office of three (3) managers shall be fixed so that such term will expire one year from and after the date of the next following annual meeting

of members of the Association. The term of office of the remaining two (2) managers shall be fixed so that such term will expire at the date of the next following annual meeting of members of the Association. At the expiration of such initial term of office of each respective manager, his successor shall be elected to serve for a term of two (2) years.

2.05 Removal of Managers. At any regular or special meeting duly called, any one or more of the managers may be removed with or without cause by the vote of members entitled to exercise at least seventy-five percent (75%) of the voting power of the Association, except that a manager, if any, acting as a representative of a lending institution may not be removed by such vote. Any manager whose removal has been proposed by the members of the Association shall be given an opportunity to be heard at such meeting. In the event that a manager is removed by vote, his successor shall then and there be elected to fill the vacancy thus created. This Section shall be subject to the provisions contained in Section 6.01.

2.06 Organization Meeting. Immediately after each annual meeting of members of the Association the newly elected managers and those managers whose terms hold over shall hold an organization meeting for the purpose of electing officers and transacting any other business. Notice of such meeting need not be given.

2.07 Regular Meetings. Regular meetings of the Board of Managers may be held at such time and place as shall be determined by a majority of the managers, but at least four such meetings shall be held during each year.

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

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

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

2.11 Fidelity Bonds. The Board of Managers shall require that all officers and employees of the Association handling or responsible for the Association funds shall furnish adequate fidelity bonds. The premiums for such bonds shall be paid by the Association.

ARTICLE III OFFICERS

3.01 Designation. The principal officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by and from the Board of Managers. The offices of Treasurer and Secretary may be filled by the same person.

3.02 Term of Office; Vacancies. The officers of the Association shall hold office until the next organization meeting of the Board of Managers and until their successors are elected, except in case of resignation, removal from office or death. The Board of Managers may remove any officer at any time, with or without cause, by a majority vote of the managers then in office. Any vacancy in any office may be filled by the Board of Managers.

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

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

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

ARTICLE IV GENERAL POWERS OF THE ASSOCIATION

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

(a) Utility Services for Common Areas and to Units when Measured by Common Meter. The cost of water, sewer services, waste removal, electricity, telephone, heat, power or any other necessary utility service to or for the Common Areas, plus the costs or charges for any utility service to individual Units which are being serviced by a common meter, i.e., water and sewer services which are being supplied to all of the Units of a building and measured through one meter. The Association reserves the right to levy additional assessments against any owner to reimburse it for excessive use, as shall be determined by the Board of Managers, by such owner of any utility service having been charged against or to the maintenance fund.

(b) Care of Common Areas and Facilities. The cost of landscaping,, gardening, snow removal, painting, cleaning, maintenance, decorating, repair and replacement of the Common Areas.

(c) Care of Certain Limited Common Areas and Facilities. The cost of maintenance, repair and replacement of those Common Areas which are designated by the Declaration as Limited Common Areas and Facilities for the exclusive use of a particular Unit or Units; excepting however those responsibilities for care of the Limited Common Areas and Facilities by Unit Owners as set forth in the Declaration.

(d) Certain Maintenance of Units. The cost of the maintenance and repair of any Unit or Limited Common Areas and Facilities if such maintenance or repair is necessary in the discretion of the Association to protect the Common Areas or any other portion of a building, and the owner or owners of said Unit have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Association to said owner or owners, provided the Association shall levy special assessment against such Unit Owner for the cost of said maintenance or repair.

(e) Casualty Insurance. The premium upon a policy or policies of fire insurance with extended coverage, vandalism and malicious endorsements, as provided in the Declaration, the amount of which insurance shall be reviewed annually.

(f) Liability Insurance. The premium upon a policy or policies insuring the Association, the members of the Board of Managers and the owners against any liability to the public or to the owners of Units, their invitees or tenants, incident to the ownership and/or use of the Common Areas, as provided in the Declaration, the limits of which policy shall be reviewed annually.

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

(h) Workmen's Compensation. The costs of Workmen's Compensation insurance to the extent necessary to comply with any applicable law.

(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 merely against the interests therein of particular owners, it being understood however, that the foregoing authority shall not be in limitation to any statutory provisions relating to the same subject matter. Where one or more owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it. Any costs incurred by the Association because of said lien or liens shall be specifically assessed to said owners.

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

4.02 Capital Additions and Improvements. The Association powers described in Section 4.01 are limited in that the Association shall have no authority to pay for out of the maintenance fund any capital additions and improvements having a total cost in excess of Two Thousand Dollars (\$2,000.00), unless it is for the purpose of replacing or restoring portions of the Common Areas. The Association shall not authorize any structural alterations, capital additions to, or capital improvements of the Common Areas requiring any expenditure in excess of Two Thousand Dollars (\$2,000.00), without in each case, the prior approval of a majority of the members of the Association.

4.03 Rules and Regulations. The Board of Managers may by majority vote adopt such reasonable rules and regulations and may amend the same which the Board of Managers may deem advisable for the maintenance, conservation and beautification of the Condominium Property, and for the health, comfort, safety and general welfare of the owners and occupants of the Condominium Property

Written notice of such rules and regulations shall be given to all owners and occupants and the Condominium Property shall at all times be maintained subject to such rules and regulations. In the event that adopted rules and regulations conflict with any provisions of the Declaration and of these By-Laws, the provisions of the Declaration and of these By-Laws shall govern.

4.04 No Active Business to be Conducted for Profit. Nothing herein shall be construed to give the Association authority to conduct active business for profit on behalf of the owners or any of them.

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

4.06 Right of Entry. An owner shall grant the right of entry to the Association or its agent in case of emergency originating in or threatening his Unit, whether the owner is present at the time or not.

4.07 Special Services. The Association may arrange for the providing of any special services and facilities for the benefit of any Unit Owners that may desire to pay for the same. Fees for such special services and facilities shall be determined by the Board of Managers and will be charged directly to the participating Unit Owners.

ARTICLE V

DETERMINATION AND PAYMENT OF ASSESSMENTS

5.01 Obligation of Owners to Pay Assessments. Each Unit Owner shall have the duty to pay his proportionate share of the expenses of administration, maintenance and repair of the Common Areas and of other expenses provided for herein. Unless otherwise provided for, such proportionate share shall be in the same ratio as his percentage of ownership in the Common Areas as set forth in the Declaration. Payment thereof shall be in such amounts and at such times as may be determined by the Board of Managers of the Association as hereinafter provided.

5.02 Preparation of Estimated Budget. The Association shall, on or before December 1st of every year, prepare an estimate of the total amounts necessary to pay the cost of wages, materials, insurance, services and supplies which will be required during the ensuing calendar year for the rendering of all services, together with a reserve for contingencies and replacements. On or before December 15th, each owner shall be notified in writing as to the amount of such estimate, with reasonable itemization thereto. On or before January 1st of the ensuing year and the 1st of each and every month of said year each owner shall be obligated to pay to the Association, or as it may direct, one-twelfth (1/12) of the assessment made pursuant to this Section. On or before the date of the annual meeting in each calendar year the Association shall supply to all owners an itemized accounting of the maintenance expenses actually incurred for the preceding calendar year, together with a tabulation of the amounts collected pursuant to the estimate provided, and showing the net amount over or short of the actual expenditures plus

reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited according to each owner's Percentage of Ownership in the Common Areas to the next monthly installment due from owners during the current year's estimate, until exhausted, and any net shortage shall be added according to each owner's Percentage of Interest in the Common Areas to the installments due in the succeeding six (6) months after rendering of the accounting.

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

5.04 Limited Common Areas and Facilities Assessments. The expense of maintenance, repair and replacement of the Limited Common Areas and Facilities designated for the use of more than one Unit shall not be Common Expenses, but shared and paid for by those Units for which such Limited Common Areas and Facilities are designated. Each Unit's share shall be equal to the expense of such maintenance, repair and replacement multiplied by a fraction, the numerator of which is the percentage of interest of such Unit and the denominator of which is the total of the percentages of interest of all the Units to which such Limited Common Areas and Facilities are designated. The Board of Managers shall separately state such Limited Common Areas and Facilities assessments in the annual budget along with the expenses associated therewith. The Board of Managers, in order to collect such assessments, may avail themselves of the lien rights and other rights provided in the Declaration for the collection of assessments for Common Expenses.

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

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

5.07 Budget for First Year. When the first Board of Managers hereunder takes office the Association shall determine the estimated cash requirement, as hereinabove defined, for the period commencing thirty (30) days after said election

and ending on December 31st of the calendar year in which said election occurs. Assessments shall be levied against the owners during said period as provided in Section 5.02.

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

5.09 Books and Records of the Association. The Association shall keep correct and complete books and records of account, specifying the receipts and expenditures relating to the Common Areas and other common receipts and expenses, together with records showing the allocation, distribution and collection of the common profits, losses and expenses among and from the Unit Owners; minutes of the proceedings of the Unit Owners and Board of Managers; and records of the names and addresses of the Unit Owners and their respective percentages of interest in the Common Areas. Such books and records shall be open for inspection by any owner or any representative of an owner, duly authorized in writing, at reasonable times and upon request by an owner. In addition, the holder of any first mortgage of record may inspect such books and records, at reasonable times and upon reasonable notice, after presentation to the Secretary of the Association of a duly certified copy of its mortgage. Upon ten (10) days notice to the Board of Managers and upon payment of a reasonable fee, any Unit Owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such owner.

5.10 Assessments. Monthly assessments shall begin upon the filing of the Declaration with the Recorder of Montgomery County, Ohio. These assessments shall be paid by every Unit Owner of record including those Units the title of which is vested in Declarant after the filing for record of the Declaration.

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

5.12 Remedies for Failure to Pay Assessments. If an Owner is in default in the monthly payment of the aforesaid charges, the members of the Board of Managers may avail themselves of the lien rights and other rights provided for in the Declaration.

ARTIVLE VI
GENERAL PROVISIONS

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

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

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

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

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

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

IN WITNESS WHEREOF, Ashton Gardens of Lincoln Park, an Ohio partnership,
by its duly authorized officer, has caused the execution of this instrument this
12TH day of NOVEMBER, 1987.

Signed and acknowledged
in the presence of:

ASHTON GARDENS OF
LINCOLN PARK

Cynthia L. Larkins

By: *Robert Arnold*
Its Partner

Hans H. Soltau

STATE OF OHIO, COUNTY OF MONTGOMERY, SS;

The foregoing instrument was acknowledged before me this 12TH day of
NOVEMBER, 1987 by Robert Arnold, partner of Ashton Gardens of Lincoln Park,
an Ohio partnership, on behalf of the partnership.

Cynthia L. Larkins
Notary Public

CYNTHIA L. LARKINS, Notary Public
In and for the State of Ohio
My Commission Expires Nov. 5, 1991

THIS INSTRUMENT PREPARED BY:

HANS H. SOLTAU
Attorney at Law
124 East Third Street
Dayton, Ohio 45402

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TRANSFERRED
1987 NOV 19 PM 12:59
DEPT. OF STATE
MONT. COUNTY RECORDER

DEED 87-0691 B11

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**FIRST AMENDMENT TO DECLARATION OF
CONDOMINIUM PROPERTY FOR
ASHTON GARDENS CONDOMINIUM**

THIS FIRST AMENDMENT TO DECLARATION OF CONDOMINIUM PROPERTY FOR ASHTON GARDENS CONDOMINIUM, hereinafter referred to as the "First Amendment", is made on the date hereinafter set forth by Ashton Gardens Condominium Association, Inc., an Ohio not-for-profit corporation, hereinafter referred to as the "Association, on behalf of the "Consenting Owners" as hereinafter defined and referred to under the circumstances summarized in the following Recitals.

RECITALS

A. On November 19, 1987 certain property located in the City of Kettering, County of Montgomery, State of Ohio was submitted to the provisions of Chapter 4311 of the Ohio Revised Code for condominium ownership by filing with the Recorder of Montgomery County, Ohio a legal instrument with attached exhibits titled "Declaration of Condominium Property for Ashton Gardens Condominium", hereinafter referred to as the "Declaration", which was previously filed with the Auditor of Montgomery County, Ohio.

QAL B. The condominium consists of Units 101, 102, 103, 104, 137, 138, 139, 140, 205, 206, 207, 208, 241, 242, 243, 244, 309, 310, 311, 312, 345, 346, 347 and 348 together with their undivided interests in the common elements and facilities of Ashton Garden Condominium, as the same are shown of record upon the drawings and described in the Declaration which are recorded at Plat Book 133, Page 1 of the Plat Records of Montgomery County, Ohio and Microfiche No. 87-690-C01 of the Deed Records of Montgomery County, Ohio.

C. An amendment to the Declaration, pursuant to Section 14.01 of the Declaration, requires the affirmative vote of Unit Owners entitled to exercise at least seventy-five percent (75%) of the voting power of the Association.

D. The Consenting Owners consist of, at a minimum seventy-five percent (75%) of those Unit Owners within Ashton Gardens Condominium entitled to exercise voting rights in the Association who have consented to the provisions of this First Amendment and its execution and recording by the Association on their behalf.

E. Copies of the consents are maintained by the Association.

NOW, THEREFORE, the Declaration is hereby amended as follows:

1. All of the terms used herein which are defined in the Declaration shall be interpreted to have the same meaning as defined in the Declaration unless specifically hereinafter defined.

2. Article I of the Declaration is hereby amended to add thereto the following:

1.31 Smoking shall mean inhaling, exhaling, breathing, burning, carrying or possession of any lighted cigar, cigarette, pipe or lighted smoking device for burning tobacco or any other plant.

3. Article XI of the Declaration is hereby amended to add thereto the following:

11.02 Penalties and Fines. The rules and regulations may establish reasonable fines and penalties for violations of the restrictions in this Declaration or any rule and regulation. Any such fines and penalties shall be considered a Special Individual Unit Assessment against the Unit for which it is imposed or charged.

4. Article XII of the Declaration is hereby amended to add thereto the following:

12.10 Smoking Prohibited. Smoking is prohibited within a Unit as defined in Section 8.01 of the Declaration, the hallways within a building which are Limited Common Areas pursuant to Section 8.02(c) of the Declaration and the elevators in a building which are Limited Common Areas pursuant to Section 8.02(d) of the Declaration. The prohibitions herein apply to any Unit Owner, occupants and all residents of the Unit and for all guests and invitees to a Unit.

5. Article XX of the Declaration is hereby amended to add thereto the following:

20.04 Procedures for Enforcement of Violations

(a) **Notice.** Prior to imposing charges for damages to the Common Areas or other property, or penalties or assessments for the enforcement of violations of the provisions of the Declaration, By-Laws or Rules and Regulations of the Association, the Board of Managers shall give the Unit Owner of the Unit written notice containing:

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

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

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

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

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

6. Unless specifically hereinabove amended, all of the provisions of the Declaration shall remain in full force and effect.

EXECUTED on the date set forth in the acknowledgement of the signatures below.

ASHTON GARDENS CONDOMINIUM
ASSOCIATION, INC.


By:


Ann M. Kellner
Member

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

The foregoing instrument was acknowledged before me this 18th day of July, 2017 by Ann M. Kellner, Member of the Board of Managers of Ashton Gardens Condominium Association, Inc., an Ohio not-for-profit corporation, on behalf of such corporation.




Amy P. Ford
Notary Public
State of Ohio
Commission Expires August 21, 2021

By:

Helen M. Heitz
Helen M. Heitz
Manager

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

The foregoing instrument was acknowledged before me this 10th day of July, 2017 by Helen M. Heitz, Member of the Board of Managers of Ashton Gardens Condominium Association, Inc., an Ohio not-for-profit corporation, on behalf of such corporation.



DENNIS SHAW
Notary Public, State of Ohio
My Commission Expires
January 27, 2021

Dennis Shaw
Notary Public

By: John R. Schleppi
John R. Schleppi
Manager

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

The foregoing instrument was acknowledged before me this 5th day of July, 2017 by John R. Schleppi, Member of the Board of Managers of Ashton Gardens Condominium Association, Inc., an Ohio not-for-profit corporation, on behalf of such corporation.

Sarah Webber
Notary Public



SARAH WEBBER, Attorney at Law
Notary Public, State of Ohio
My Commission has no expiration date.
Section 147.03 O. R. C.

By: _____

Cynthia L. Donnelly
Manager

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

The foregoing instrument was acknowledged before me this 5th day of July, 2017 by Cynthia L. Donnelly, Member of the Board of Managers of Ashton Gardens Condominium Association, Inc., an Ohio not-for-profit corporation, on behalf of such corporation.

Sarah Webber
Notary Public



SARAH WEBBER, Attorney at Law
Notary Public, State of Ohio
My Commission has no expiration date.
Section 147.03 O. R. C.

By: Douglas A. Ferrigno
Douglas A. Ferrigno
Manager

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

The foregoing instrument was acknowledged before me this ____ day of July, 2017 by Douglas A. Ferrigno, Member of the Board of Managers of Ashton Gardens Condominium Association, Inc., an Ohio not-for-profit corporation, on behalf of such corporation.

Curtis Thomas
Notary Public



CURTIS THOMAS, Notary Public
In and for the State of Ohio
My Commission Expires April 28, 2021

THIS INSTRUMENT PREPARED BY:

HANS H. SOLTAU
Attorney at Law
6778 Loop Road
Centerville, Ohio 45459

ME

Type: Deeds
Kind: SPECIAL INSTRUMENT (DEED)
Recorded: 11/2/2017 9:28:25 AM
Fee Amt: \$68.00 Page 1 of 7
Montgomery County, OH
Willis E. Blackshear Recorder

NO TRANSFER
09:25am NOVEMBER 02, 2017
KARL L. KEITH, COUNTY AUDITOR

File# 2017-00065759

SECOND AMENDMENT TO DECLARATION OF CONDOMINIUM PROPERTY FOR ASHTON GARDENS CONDOMINIUM

THIS SECOND AMENDMENT TO DECLARATION OF CONDOMINIUM PROPERTY FOR ASHTON GARDENS CONDOMINIUM, hereinafter referred to as the "Second Amendment", is made on the date hereinafter set forth by Ashton Gardens Condominium Association, Inc., an Ohio not-for-profit corporation, hereinafter referred to as the "Association, on behalf of the "Consenting Owners" as hereinafter defined and referred to under the circumstances summarized in the following Recitals.

RECITALS

A. On November 19, 1987 certain property located in the City of Kettering, County of Montgomery, State of Ohio was submitted to the provisions of Chapter 4311 of the Ohio Revised Code for condominium ownership by filing with the Recorder of Montgomery County, Ohio a legal instrument with attached exhibits titled "Declaration of Condominium Property for Ashton Gardens Condominium", hereinafter referred to as the "Declaration", which was previously filed with the Auditor of Montgomery County, Ohio.

The Declaration was subsequently amended by the First Amendment to the Declaration of Condominium Property for Ashton Gardens Condominium which was filed July 20, 2017 at Instrument No. 2017-00042495 of the Montgomery County, Ohio Recorder's records. All references to the Declaration herein shall refer to the Declaration, as amended by such First Amendment.

JT

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Hans H Soltau Co
Attn: 6776 Loop Rd
Centerville, OH 45459

B. The condominium consists of Units 101, 102, 103, 104, 137, 138, 139, 140, 205, 206, 207, 208, 241, 242, 243, 244, 309, 310, 311, 312, 345, 346, 347 and 348 together with their undivided interests in the common elements and facilities of Ashton Garden Condominium, as the same are shown of record upon the drawings and described in the Declaration which are recorded at Plat Book 133, Page 1 of the Plat Records of Montgomery County, Ohio and Microfiche No. 87-690-C01 of the Deed Records of Montgomery County, Ohio.

C. An amendment to the Declaration, pursuant to Section 14.01 of the Declaration, requires the affirmative vote of Unit Owners entitled to exercise at least seventy-five percent (75%) of the voting power of the Association.

D. The Consenting Owners consist of, at a minimum seventy-five percent (75%) of those Unit Owners within Ashton Gardens Condominium entitled to exercise voting rights in the Association who have consented to the provisions of this First Amendment and its execution and recording by the Association on their behalf.

E. Copies of the consents are maintained by the Association.

NOW, THEREFORE, the Declaration is hereby amended as follows:

1. All of the terms used herein which are defined in the Declaration shall be interpreted to have the same meaning as defined in the Declaration unless specifically hereinafter defined.

2. Section 2.01 of the By-Laws is hereby amended by deleting the reference to five (5) and inserting three (3) in its stead.

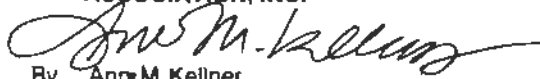
3. Section 2.04 of the By-Laws is hereby amended to provide that upon the execution hereof the term of office of one (1) manager shall be set for one (1) year. The term of office for a second manager shall be two (2) years. The term of office for the remaining manager shall be three (3) years. Upon expiration of such initial term the term of office for each manager shall be three (3) years, with the term of one (1) of the managers expiring each year.

4. Section 3.01 of the By-Laws is hereby amended to eliminate the office of Vice President.

5. Unless specifically hereinabove amended, all of the provisions of the Declaration shall remain in full force and effect.

EXECUTED on the date set forth in the acknowledgement of the signatures below.


ASHTON GARDENS CONDOMINIUM
ASSOCIATION, INC.


By Anne M. Kellner
Member

STATE OF Ohio --- COUNTY OF Montgomery SS:

The foregoing instrument was acknowledged before me this 5 day of October, 2017 by Anne M. Kellner, Member of the Board of Managers of Ashton Gardens Condominium Association, Inc., an Ohio not-for-profit corporation, on behalf of such corporation.




Notary Public

Dale Kesterson
Notary Public
State of Ohio
Commission Expires 08/31/2021

Helen M. Heitz

By: Helen M. Heitz
Manager

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

The foregoing instrument was acknowledged before me this 25th day of October, 2017 by Helen M. Heitz, Member of the Board of Managers of Ashton Gardens Condominium Association, Inc., an Ohio not-for-profit corporation, on behalf of such corporation.

Jennifer P. Kleine
Notary Public



JENNIFER P. KLEINE
Notary Public, State of Ohio
My Commission Expires
January 11, 2021

Carroll M. Schleppi POA

By: John R. Schleppi
Manager

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

The foregoing instrument was acknowledged before me this 25 day of October, 2017 by John R. Schleppi, Member of the Board of Managers of Ashton Gardens Condominium Association, Inc., an Ohio not-for-profit corporation, on behalf of such corporation.



[Signature]
Notary Public

By: Cynthia L. Donnelly
Manager

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

The foregoing instrument was acknowledged before me this 26th day of October, 2017 by Cynthia L. Donnelly, Member of the Board of Managers of Ashton Gardens Condominium Association, Inc., an Ohio not-for-profit corporation, on behalf of such corporation.



Theresa A. Marzelle, Notary Public
in and for the State of Ohio
My Commission Expires July 23, 2020

Theresa A. Marzelle
Notary Public

Cynthia L. Donnelly

Douglas A. Ferrigno

By: Douglas A. Ferrigno
Manager

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

The foregoing instrument was acknowledged before me this 18 day of October, 2017 by Douglas A. Ferrigno, Member of the Board of Managers of Ashton Gardens Condominium Association, Inc., an Ohio not-for-profit corporation, on behalf of such corporation.



Deborah P. Wilbreth
Notary Public

THIS INSTRUMENT PREPARED BY:

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