

1

---

---

**RESTATED  
DECLARATION**

**Establishing Lake Breeze Condominium  
City of Rochester, County of Monroe, New York,  
Pursuant to Article 9-B of the Real Property Law of  
the State of New York.**

**NAME: LAKE BREEZE CONDOMINIUM**

**MADE BY:**

**DATED: July 27, 2006**

---

**Prepared by**

**Ronald S. Shubert, Esq.  
PHILLIPS LYTTLE LLP  
3400 HSBC Center  
Buffalo, New York 14203  
716-847-5491**

2006 AUG 22 PM 3:05  
RECORDED

RECORDED

LAKE BREEZE CONDOMINIUM  
CERTIFICATE OF AMENDMENT  
TO  
DECLARATION OF CONDOMINIUM

Lake Breeze Condominium, a Condominium organized and existing pursuant to Article 9-B of the Real Property Law of the State of New York, has amended and restated the Declaration and By-Laws of Lake Breeze Condominium recorded in the Monroe County Clerk's Office on August 1, 1984 in Liber 6565 of Deeds at Page 1.

This Amended and Restated Declaration and By-Laws were duly authorized and adopted as provided for in Article XIV of the Declaration.

The Unit Owners and Board of Managers have met and discussed the proposed Restated Declaration and By-Laws after Notice, and unanimously approved to the Restated Declaration and By-Laws, by Resolution dated May 4, 2006.

This Restated Declaration and By-Laws shall become effective upon its recording in the Office of the County Clerk of Monroe County.

IN WITNESS WHEREOF, the Lake Breeze Condominium has executed this Amendment, restating the Declaration and By-Laws this 27 day of July, 2006

LAKE BREEZE CONDOMINIUM

By Charles J. Gardner  
President

By Thomas D. Lewis  
Vice President

By Katherine L. Kimpanda  
Secretary

By Richard X. Johnson  
Member

By John A. Pallas  
Treasurer

By Geraldine Mahan  
Member

STATE OF NEW YORK )  
 )SS.:  
COUNTY OF MONROE )

On the 27<sup>th</sup> day of July in the year 2005, before me, the undersigned, a notary public in and for said state, personally appeared Joseph A Cavallaro, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Vincent A. Ange  
Notary Public

VINCENT A. ANGE  
NOTARY PUBLIC  
STATE OF NEW YORK MONROE Co.  
COMMISSION EXPIRES FEB. 21, 2007 June 3, 2007

STATE OF NEW YORK )  
 )SS.:  
COUNTY OF MONROE )

On the 27<sup>th</sup> day of July in the year 2005, before me, the undersigned, a notary public in and for said state, personally appeared Richard X Johnson, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Vincent A. Ange  
Notary Public

VINCENT A. ANGE  
NOTARY PUBLIC  
STATE OF NEW YORK MONROE Co.  
COMMISSION EXPIRES FEB. 21, 2007 June 3, 2007

STATE OF NEW YORK )  
 )SS.:  
COUNTY OF MONROE )

On the 27<sup>th</sup> day of July in the year 2005, before me, the undersigned, a notary public in and for said state, personally appeared Charles J. Gardner, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Vincent A. Ange  
Notary Public

VINCENT A. ANGE  
NOTARY PUBLIC  
STATE OF NEW YORK MONROE Co  
COMMISSION EXPIRES FEB 28, 11 June 3, 2007

STATE OF NEW YORK )  
 )SS.:  
COUNTY OF MONROE )

On the 27<sup>th</sup> day of July in the year 2005, before me, the undersigned, a notary public in and for said state, personally appeared Thomas F. Keswick, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Vincent A. Ange  
Notary Public

VINCENT A. ANGE  
NOTARY PUBLIC  
STATE OF NEW YORK MONROE Co  
COMMISSION EXPIRES FEB 28, 11 June 3, 2007

STATE OF NEW YORK )  
 )SS.:  
COUNTY OF MONROE )

On the 27<sup>th</sup> day of July in the year 2005, before me, the undersigned, a notary public in and for said state, personally appeared Kathleen L. Karafonda, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Vincent A. Ange  
Notary Public

VINCENT A. ANGE  
NOTARY PUBLIC  
STATE OF NEW YORK MONROE Co  
COMMISSION EXPIRES FEB 28, 11 June 3, 2007

STATE OF NEW YORK )  
 )SS.:  
COUNTY OF MONROE )

On the 27<sup>th</sup> day of July in the year 2005, before me, the undersigned, a notary public in and for said state, personally appeared Ceraldine Mahan, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Vincent A. Ange

Notary Public

STATE OF NEW YORK )  
 )SS.:  
COUNTY OF MONROE )

VINCENT A. ANGE  
NOTARY PUBLIC  
STATE OF NEW YORK MONROE Co.  
EXPIRES FEBRUARY 28, 2007

June 3, 2007

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2005, before me, the undersigned, a notary public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**DECLARATION OF  
LAKE BREEZE CONDOMINIUM**

**Table of Contents**

	<u>Page</u>
ARTICLE I	SUBMISSION OF PROPERTY ..... 1
Section 1.01.	Submission ..... 1
ARTICLE II	DEFINITIONS ..... 1
Section 2.01.	Definitions ..... 1
ARTICLE III	BUILDING ..... 3
Section 3.01.	Building ..... 3
ARTICLE IV	UNITS ..... 3
Section 4.01.	Number and Address of Units ..... 3
Section 4.02.	Designations, Percentage Interest in Common Elements ..... 4
Section 4.03.	Dimensions of Units ..... 4
Section 4.04.	Ownership of Units ..... 4
Section 4.05.	Use of Units ..... 4
Section 4.06.	No Partition of Units ..... 5
Section 4.07.	Layout of Units ..... 5
ARTICLE V	COMMON ELEMENTS ..... 8
Section 5.01.	Definition of Common Elements ..... 8
Section 5.02.	Interest in Common Elements ..... 8
Section 5.03.	Eminent Domain ..... 9
Section 5.04.	Common Elements to Remain Undivided ..... 11
Section 5.05.	Abandonment, Encumbrance, Conveyance or Transfer of Common Elements ..... 11
Section 5.06.	Restricted or Limited Common Elements ..... 11
ARTICLE VI	ALTERATION OF UNITS OR COMMON ELEMENTS ..... 11
Section 6.01.	Increases and Decreases in Size and Number of Units ..... 11
Section 6.02.	No Other Additions or Structural Alterations to Units ..... 12
Section 6.03.	Alteration and Improvement of Common Elements ..... 12
Section 6.04.	Submission of Plans to Board of Managers; Approval ..... 13
Section 6.05.	Written Notification of Disapproval ..... 14

Section 6.06.	Failure of Board to Act . . . . .	14
Section 6.07.	Board of Managers' Right to Promulgate Rules and Regulations . . . . .	14
Section 6.08.	Applications for Unit and Common Element Improvement Permits to be Executed by Board of Managers and Indemnification of Board; Insurance . . . . .	14
Section 6.09.	Liability of Board of Managers . . . . .	15
ARTICLE VII	EASEMENTS . . . . .	15
Section 7.01.	Unit Owner's Access to Unit . . . . .	15
Section 7.02.	Utilities, Pipes and Conduits . . . . .	15
Section 7.03.	Access of Board of Managers . . . . .	16
Section 7.04.	Right of Board of Managers to Grant Easements, Licenses and Permits . . . . .	16
Section 7.05.	Easement of Necessity . . . . .	16
ARTICLE VIII	VOTING RIGHTS . . . . .	16
Section 8.01.	Voting Rights Based on Interest in Common Elements . . . . .	16
ARTICLE IX	COMMON CHARGES - ALLOCATION, LIEN AND LIABILITY . . . . .	16
Section 9.01.	Allocation and Commencement of Common Charges . . . . .	16
Section 9.02.	Common Charges Are Lien on Unit and Personal Obligation of Unit Owner . . . . .	17
ARTICLE X	BOARD OF MANAGERS . . . . .	17
Section 10.01.	Board of Managers . . . . .	17
Section 10.02.	Administration . . . . .	18
Section 10.03.	Power of Attorney to Board of Managers . . . . .	18
Section 10.04.	Acquisition of Units by Board of Managers . . . . .	18
ARTICLE XI	OBLIGATIONS, RESPONSIBILITIES, COVENANTS, AND RESTRICTIONS . . . . .	18
Section 11.01.	All Owners, Tenants and Occupants Subject to Condominium Documents Which Run With the Land . . . . .	18
Section 11.02.	Units to be Properly Maintained . . . . .	19
Section 11.03.	Mortgages on Units . . . . .	19
Section 11.04.	Notice to Mortgagees . . . . .	19
Section 11.05.	No Nuisances . . . . .	19
Section 11.06.	No Immoral or Unlawful Use . . . . .	19
Section 11.07.	Obligation to Maintain Utility Service . . . . .	19

Section 11.08.	Rules and Regulations .....	19
ARTICLE XII	AMENDMENT AND TERMINATION .....	20
Section 12.01.	Amendment .....	20
Section 12.02.	Amendment by Board of Managers to Correct Errors .....	20
Section 12.03.	Termination .....	20
ARTICLE XIII	GENERAL .....	21
Section 13.01.	Service of Process .....	21
Section 13.02.	Invalidity .....	21
Section 13.03.	Waiver .....	21
Section 13.04.	Captions .....	21
Section 13.05.	Gender .....	21
SCHEDULE A	DESCRIPTION OF CONDOMINIUM PROPERTY .....	22
SCHEDULE B	UNIT DESIGNATIONS/SQUARE FOOTAGE/PERCENTAGE INTERESTS IN COMMON ELEMENTS/ACCESS TO COMMON ELEMENTS .....	24
EXHIBIT 1	ASSIGNMENT OF STORAGE SPACES	
SCHEDULE C	BY-LAWS	



**DECLARATION  
ESTABLISHING  
LAKE BREEZE CONDOMINIUM**

For the Premises Described on Schedule A attached hereto in the City of Rochester, County of Monroe, New York, pursuant to Article 9-B of the Real Property Law of the State of New York, the Unit Owners of Units in Lake Breeze Condominium, created by Declaration ("Declaration") of Condominium recorded in the Monroe County Clerk's Office on August 1, 1984 in Liber 6565 of Deeds at Page 1, do hereby amend and restate the Declaration and By-Laws of the Condominium, as follows:

**ARTICLE I**

**SUBMISSION OF PROPERTY**

Section 1.01. Submission. The Unit Owners hereby submit the land described on Schedule A attached hereto and made a part hereof, together with all improvements thereon erected (hereinafter called the "Property") to the provisions of Article 9-B of the Real Property Law of the State of New York (the "Condominium Act").

**ARTICLE II**

**DEFINITIONS**

Section 2.01. Definitions.

"Board of Managers" shall mean and refer to that body of individuals elected or appointed pursuant to the By-Laws of the Condominium to administer the operation and maintenance of the Condominium Property.

"Building" shall mean and refer to the structure containing 33 units.

"By-Laws" shall mean and refer to the framework and procedures pursuant to which the Condominium will be operated. The By-Laws are attached to this Declaration as Schedule C.

"Common Charges". Each Unit's proportionate shares of the common expenses in accordance with its common interest. The common expenses shall include:

1. Maintenance, management, operation, repair and replacement of the common elements. The cost of maintenance and repair of foundation and exterior walls of the Units and their roofs shall constitute a common charge; and

2. Management and administration of the Condominium, including, but not limited to, compensation paid by the Condominium to a managing agent, accountants, attorneys, and other employees; and

3. Any other items, including insurance, held by or in accordance with the provisions of this Declaration.

“Common Elements”. “Common Elements,” unless otherwise provided in this declaration, means and includes:

1. The land on which the building is located;

2. The foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, and entrances and exits of the building;

3. The basements, cellars, yards, gardens, parking areas and storage spaces, other than the storage spaces assigned to particular Units;

4. The premises for the lodging or use of custodians and other persons employed for the operation of the property;

5. Central and appurtenant installations for services such as power, light, gas, hot and cold water, heating, refrigeration, and air conditioning and;

6. In general, all apparatus and installations existing for common use.

“Common Interest”. Each Unit’s proportionate, undivided interest in fee simple absolute in the common elements.

“Condominium” shall mean and refer to the Lake Breeze Condominium.

“Declaration” shall mean and refer to this Declaration of Condominium which, by being recorded in the Monroe County Clerk’s Office, subjects the Property to the provisions of Article 9-B of the Real Property Law of the State of New York.

“Eligible Mortgage Holder” shall mean and refer to the holder of a first mortgage on a Unit who has requested the Board of Managers to notify them on any proposed action or any

proposed modification, alteration, amendment or addition to the legal documents of the Condominium which requires the consent of mortgagees or Eligible Mortgage Holders.

“Institutional Mortgagee” shall mean and refer to a bank, savings and loan association, life insurance company, pension trust, trust company which holds a first mortgage on a Unit.

“Property” or Condominium Property” shall mean and refer to the land and all improvements thereon (including the “Units”, and the common elements), owned in fee simple absolute, and all easements, rights and appurtenances belonging thereto, and all other property, personal or mixed, intended for use in connection therewith, all of which are intended to be submitted to the provisions of said Article 9-B of the Real Property Law of the State of New York.

“Restricted Common Elements”. Common elements restricted to the exclusive use and enjoyment of the owner of a particular Unit.

“Rules and Regulations” shall mean those guidelines relating to the use of the Property attached to the By-Laws of the Condominium as the same may be amended from time to time by the Board of Managers.

“Unit” shall mean and refer to a specific portion of a Building designed for separate occupancy as a dwelling by an individual or group of individuals. The term “Unit” and “Unit Owner” as used herein shall be construed to mean Unit and Unit Owner as defined in Section 339-e of Article 9-B of the Real Property Law of the State of New York.

“Unit Owner” shall mean and refer to the record owner of a Unit in the Condominium.

### ARTICLE III

#### BUILDING

Section 3.01. Building. The “Building”, as hereinafter referred to, is the structure containing 33 Units. The property on which the Building is located is more particularly described in Schedule A attached hereto.

### ARTICLE IV

#### UNITS

Section 4.01. Number and Address of Units. There are 33 Units in one (1) Building.

Units are designated by Unit number 1-33 at 270 Latta Road.

Section 4.02. Designations, Percentage Interest in Common Elements. Annexed hereto, and made a part hereof as Schedule B, is a list of all Units in the Building, their Unit designations, square footage, and percentage of interest in the “common elements” as hereinafter defined.

Section 4.03. Dimensions of Units. Each Unit is measured horizontally from the interior surfaces of all walls to the interior surface of all opposite walls. Vertically each Unit is measured from the surface of the floor of the Unit up to the surface of the ceiling. Doors and windows which open from or abut a Unit are a part of the Unit.

All pipes, wires, conduits and utility lines or portions thereof located within a particular Unit, or in the common elements, or another Unit, which services that particular Unit, shall be owned by the Owner of that particular Unit. Any portion of the pipes, wires, conduits and public utility lines not owned by a public utility company, or a Unit Owner, and located in the common elements will be owned in common by all the Unit owners.

Section 4.04. Ownership of Units. Each Unit will be sold to one or more parties (hereinafter referred to as the “Unit Owners”) with each Unit Owner obtaining fee ownership to the Unit acquired and the appurtenant undivided interest in the “common elements” (see Article V of this Declaration) of the Condominium, all as set forth in Schedule B of this Declaration. Upon acquiring title in such manner, such purchaser(s) shall become a Unit Owner in the Condominium and will remain such so long as such Unit is owned by such Owner.

Section 4.05. Use of Units.

Each Unit shall:

- (1) be used for residential purposes only;
- (2) be resided in by not more persons (including children) than two (2) times the number of bedrooms in the Unit, except that this shall not apply to persons who have a child after they have taken occupancy;
- (3) if resided in by three (3) or more persons (including children) such persons shall be members of the same family (or if the Unit Owner or lessee is a partnership, a corporation or a trust, members of the family of a partner, director, shareholder, or employee of the corporation or of the beneficiary of the trust, as the case may be). “Same family” shall be defined as persons related to one another as husband, wife, mother, father, sister, brother, stepsister, stepbrother, daughter, son, stepdaughter, stepson; together with their children. This restriction requiring three (3) or more residents to be

members of the same family may be waived by written consent obtained from the Board of Managers prior to occupancy; and

- (4) not be leased or rented for an initial period of less than four (4) months.

Section 4.06. No Partition of Units. No Unit (including the interest in the common elements appurtenant thereto) shall be subject to partition by the Unit Owner; provided, however, that the foregoing shall not be construed as prohibiting any division or combination of Units as provided in Section 6.01 of this Declaration or any structural alterations or changes in the number of rooms in a Unit upon approval of the Board of Managers as provided for in Article VI of this Declaration.

Section 4.07. Layout of Units.

Unit No. 1 shall consist of a residential two bedroom Unit on the first floor of the building and shall contain a foyer, living room, dining room, kitchen, den, two bedrooms, bathroom, powder room, laundry, and the exclusive use of two (2) storage areas in the basement.

Unit No. 2 shall consist of a residential two bedroom Unit on the first floor of the building and shall contain a foyer, living room, dining area, kitchen, pantry, two bedrooms, bathroom, powder room and laundry room. The Unit shall have the exclusive use of a storage area in the basement.

Unit No. 3 shall consist of a residential two bedroom Unit on the first floor of the building and shall contain a foyer, living room, dining room, kitchen, pantry, two bedrooms, bathroom, powder room, laundry, and the exclusive use of a storage area in the basement.

Unit No. 4 shall consist of a residential two bedroom Unit on the first floor of the building and shall contain a foyer, living room, dining room, kitchen, two bedrooms, bathroom, powder room, and laundry-storage room. This Unit shall have the exclusive use of a storage area in the basement, and one (1) on the second floor.

Unit No. 5 shall consist of a residential two bedroom Unit on the first floor of the building and shall contain a foyer, living room, dining room, kitchen, two bedrooms, bathroom, powder room, and laundry. This Unit shall have the exclusive use of a storage area in the basement.

Unit No. 6 shall consist of a residential two bedroom Unit on the second floor of the building and shall contain a foyer, living room, fireplace, dining room, kitchen, den, pantry, two bedrooms, bathroom, powder room, laundry and the exclusive use of a storage area in the basement and one (1) on the second floor.

Unit No. 7 shall consist of a residential two bedroom Unit on the second floor of the building and shall contain a foyer, living room, dining room, kitchen, two bedrooms, bathroom, powder room, laundry and storage. This Unit shall have the exclusive use of a storage area on the second floor.

Unit No. 8 shall consist of a residential two bedroom Unit on the second floor of the building and shall contain a foyer, living room, dining room, kitchen, two bedrooms, laundry, bathroom, powder room, and the exclusive use of a storage area in the basement.

Unit No. 9 shall consist of a residential two bedroom Unit on the second floor of the building and shall contain a foyer, living room, dining room, kitchen, bathroom, powder room, laundry and the exclusive use of a storage area in the basement.

Unit No. 10 shall consist of a residential two bedroom Unit on the second floor of the building and shall contain a foyer, living room, dining room, kitchen, two bedrooms, laundry, bathroom and powder room. This Unit shall have the exclusive use of a storage area in the basement.

Unit No. 11 shall consist of a residential one bedroom Unit on the first floor of the building and shall contain a living room, dining area, kitchen, pantry, bathroom, powder room, bedroom with loft, laundry and exclusive use of a storage area below the Unit.

Unit No. 12 shall consist of a residential two bedroom Unit on the first floor of the building and shall contain a foyer, living room, dining area, kitchen, two bedrooms, bathroom, powder room, laundry, and exclusive use of a storage area below the Unit.

Unit No. 13 shall consist of a residential two bedroom Unit on the first floor of the building and shall contain a foyer, living room, dining room, kitchen, pantry, two bedrooms, bathroom, powder room, and laundry room.

Unit No. 14 shall consist of a residential two bedroom Unit on the first floor of the building and shall contain a foyer, living room, dining room, kitchen, pantry, two bedrooms, laundry, bathroom and powder room. This Unit shall have the exclusive use of a storage area in the basement.

Unit No. 15 shall consist of a residential two bedroom Unit on the first floor of the building and shall contain a foyer, living room, dining room, kitchen, pantry, two bedrooms, bathroom, powder room, and laundry room.

Unit No. 16 shall consist of a residential two bedroom Unit on the first floor of the building and shall contain a foyer, living room, dining room, kitchen, two bedrooms, rear entry, bathroom, powder room and laundry room. This Unit shall have the exclusive use of a storage area in the basement.

Unit No. 17 shall consist of a residential two bedroom Unit on the first floor of the building and shall contain a foyer, living room, dining room, kitchen, two bedrooms, laundry, bathroom and powder room. There is a fireplace in one of the bedrooms. The maintenance, repair and cleaning of this fireplace shall be the responsibility of the owner of Unit 17. This Unit shall have the exclusive use of a storage area in the basement.

Unit No. 18 shall consist of a residential two bedroom Unit on the first floor of the building and shall contain a foyer, living room, dining room, kitchen, two bedrooms, bathroom, powder room, laundry and exclusive use of a storage area in the basement.

Unit No. 19 shall consist of a residential two bedroom Unit on the first floor of the building and shall contain a foyer, living room, dining room, kitchen, pantry, two bedrooms, bathroom, powder room, laundry room and exclusive use of a storage area in the basement.

Unit No. 20 shall consist of a residential two bedroom Unit on the first floor of the building and shall contain a foyer, living room, dining room, kitchen, pantry, two bedrooms, bathroom, powder room, storage room and laundry room. This Unit shall have the exclusive use of a storage area in the basement.

Unit No. 21 shall consist of a residential two bedroom Unit on the first floor of the building and shall contain a foyer, living room, dining room, kitchen, powder room, storage room and laundry room. This Unit shall have the exclusive use of a storage area in the basement.

Unit No. 22 shall consist of a residential two bedroom Unit on the first floor of the building and shall contain a foyer, living room, dining room, kitchen, pantry, laundry, powder room, and bathroom. This Unit shall have the exclusive use of a storage area in the basement.

Unit No. 23 shall consist of a residential two bedroom Unit on the first floor of the building and shall consist of a foyer, living room, dining room, kitchen, laundry room, two bedrooms, bathroom and powder room. This Unit shall have the exclusive use of a storage area in the basement.

Unit No. 24 shall consist of a residential two bedroom Unit on the second floor of the building and shall consist of a foyer, living room, dining room, sitting area, kitchen, pantry, two bedrooms, bathroom, powder room, laundry room and exclusive use of a storage area in the basement.

Unit No. 25 shall consist of a residential two bedroom Unit on the second floor of the building and shall consist of a foyer, living room, dining room, sitting area, kitchen, pantry, two bedrooms, bathroom, powder room, laundry room and exclusive use of a storage area in the basement.

Unit No. 26 shall consist of a residential two bedroom Unit on the second floor of the building and shall contain a foyer, living room, dining room, kitchen, pantry, two bedrooms, bathroom, powder room, storage room, and laundry room. This Unit shall have the exclusive use of a storage area in the basement.

Unit No. 27 shall consist of a residential two bedroom Unit on the second floor of the building and shall contain a foyer, living room, dining room, kitchen, laundry room, two bedrooms, bathroom and powder room. This Unit shall have the exclusive use of a storage area in the basement.

Unit No. 28 shall consist of a residential two bedroom Unit on the second floor of the building and shall contain a foyer, living room, dining room, kitchen, pantry, two bedrooms, bathroom, powder room, laundry room and exclusive use of a storage area in the basement.

Unit No. 29 shall consist of a residential two bedroom Unit on the second floor of the building and shall contain a foyer, living room, dining room, kitchen, laundry room, two bedrooms, bathroom, powder room and exclusive use of a storage area in the basement.

Unit No. 30 shall consist of a residential two bedroom Unit on the second floor of the building and shall contain a foyer, living room, dining room, kitchen, laundry, two bedrooms, bathroom, and powder room.

Unit No. 31 shall consist of a residential two bedroom Unit on the second floor of the building and shall contain a foyer, living room, dining room, kitchen, two bedrooms, bathroom, powder room, and laundry room. This Unit shall have the exclusive use of a storage area in the basement.

Unit No. 32 shall consist of a residential two bedroom Unit on the second floor of the building and shall contain a foyer, living room, dining room, kitchen, laundry room, two bedrooms, bathroom, and powder room. This Unit shall have the exclusive use of a storage area in the basement.

Unit No. 33 shall consist of a residential two bedroom Unit on the second floor of the building and shall consist of a foyer, living room, dining room, kitchen, pantry, two bedrooms, bathroom, powder room, and laundry room.

The Board of Managers has one storage area in the basement.

## ARTICLE V

### COMMON ELEMENTS

Section 5.01. Definition of Common Elements. The common elements are defined in Article II of this Declaration.

Section 5.02. Interest in Common Elements. Each Unit Owner shall have such percentage interest in the common elements as is set forth on Schedule B attached hereto and shall bear such percentage of the common expenses of the Condominium.

The percentages of interest in the common elements for each Unit has been determined in accordance with Section 339-i.1(ii) of the Real Property Law, based upon the approximate proportion that the square footage of each Unit bears to the aggregate square footage of all Units.



The interests in common elements, as expressed herein, shall have a permanent character and shall not be altered without the consent of all Unit Owners affected, as well as their mortgagees, expressed in a duly recorded amendment hereto.

The undivided interest in the common elements shall not be separated from the Unit to which it appertains and shall be deemed conveyed or encumbered with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

Section 5.03. Eminent Domain. Notwithstanding Section 5.02 above, if a Unit or Units, or the common elements, or any portion thereof is threatened by eminent domain, the following shall apply:

- (a) Notification to Eligible Mortgage Holders. The Board of Managers shall give written notice to all Unit Owners and all holders, insurers and guarantors of mortgages in Units whose names appear on the books and records of the Condominium, of any notification received by the Board of Managers advising it of a pending or threatened condemnation of any portion of the Condominium Property.
- (b) Action to Contest Condemnation. The Board of Managers shall have the exclusive right to contest any condemnation or eminent domain proceeding which is directed at taking any portion of the common elements or which touches upon, concerns or affects the use of the common elements. No Unit Owner or tenant of a Unit shall impair or prejudice the action of the Board of Managers in contesting such condemnation. Such restriction or prohibition shall not preclude a Unit Owner or tenant of a Unit from contesting the taking in such condemnation or eminent domain proceeding of the Unit owned or rented by such Unit Owner or tenant. In any action contesting a taking by condemnation or eminent domain proceeding, the Board of Managers shall request the court to set forth the allocation of the condemnation award among the Unit Owners affected, taking into account the respective percentage interests in the common elements, the effect of the taking on each Unit affected thereby and any other relevant factors.
- (c) Partition Action in Lieu of Continuation of Condominium After Partial Taking by Condemnation. If any condemnation or eminent domain proceeding results in a partial taking of the Property, then the Property or so much thereof as shall remain, shall be subject to an action for partition as provided for by Section 339-t of the Real Property Law, in which event the net proceeds of sale, together with the net proceeds of the award from the condemnation or eminent domain, shall be considered one fund and shall be divided among all the Unit Owners in proportion to their respective common interests; provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of such Owner's share, all liens on such Owner's Unit.

- (d) Distribution of Condemnation Awards for Taking of Common Elements. Except as provided in (c) above and except for any award obtained by a Unit Owner for the Unit as further provided in (b) above, in the event that all or part of the common elements are taken in condemnation or eminent domain proceedings, the award from such proceedings shall be paid to an insurance trustee (bank, trust company, law firm or attorney) selected by the Board of Managers if the award is more than \$50,000.00 and to the Board of Managers if the award is \$50,000.00 or less. (This \$50,000.00 limit shall automatically increase each calendar year by 5% over the limit of the previous year.) The Board of Managers or the insurance trustee, as the case may be, shall arrange for the repair, restoration or replacement of such common elements to the extent reasonably possible, and shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments.

If there shall be a surplus of such proceeds or if the Board of Managers or insurance trustee cannot reasonably repair, restore or replace the common elements taken, the proceeds shall be distributed among the Unit Owners and the percentage interests in the common elements of the Condominium reallocated among the remaining Units as the court shall have directed, or as provided in (e) below, if there was no direction by the court, taking into account the respective percentage interests in the common elements of the Units affected thereby, the effect of the taking on each Unit affected thereby after the completion of any repair, restoration or replacement by the Board of Managers or insurance trustee and any other relevant factors. Any court direction as to such distribution shall be final. Any Unit Owner or tenant who wishes to contest a determination by the Board of Managers may do so by submitting the matter to the American Arbitration Association for a determination of a fair and proper distribution, or reallocation of percentage interests in the common elements, as the case may be, which shall be binding on the Board of Managers, and on all Unit Owners and tenants. The cost of such arbitration shall be borne solely by the Unit Owner or tenant submitting the matter for arbitration.

After any determination for reallocation of percentage interests in the common elements, the Unit Owners shall promptly prepare, execute and record an amendment to the Condominium Declaration reflecting such reallocation, which said Amendment need only be executed by Unit Owners affected and by a majority of the Board of Managers.

- (e) Condemnation Provisions Subject to Existing Law. All provisions of this Section 5.03 are subject to interpretation in accordance with the law in effect at the time of any condemnation or eminent domain proceeding. Should all or any portion of the provisions of this Section 5.03 be deemed illegal at such time, the distribution of proceeds, rights with respect to partition and allocation of percentage interests in the common elements after a partial taking, shall be as a court of law shall determine.

Section 5.04. Common Elements to Remain Undivided. The common elements shall remain undivided and no Unit Owner shall bring any action for partition or division unless otherwise provided by law and unless consented to by all holders of first mortgages on the Units.

Section 5.05. Abandonment, Encumbrance, Conveyance or Transfer of Common Elements. The common elements shall not be abandoned, encumbered, conveyed or transferred without the consent of all the Unit Owners, who shall vote upon written ballot which shall be sent to every Unit Owner not less than 30 days nor more than 50 days in advance of the date or initial date of the canvass for voting on the proposed abandonment, encumbrance, conveyance or transfer. No such abandonment, encumbrance, conveyance or transfer shall be made if Eligible Mortgage Holders, of 51% or more of those Units subject to mortgages held by Eligible Mortgage Holders advise the Board of Managers in writing, prior to the date set for voting on the proposed abandonment, encumbrance, conveyance or transfer that they are opposed to such abandonment, encumbrance, conveyance or transfer which opposition shall not be unreasonable. Written notice of any such proposed abandonment, encumbrance, conveyance or transfer, shall be sent to all Eligible Mortgage Holders not less than 30 days nor more than 50 days prior to the date set for voting on the proposed abandonment, encumbrance, conveyance or transfer.

Notwithstanding the foregoing, the Condominium Board of Managers shall have the power to grant easements, rights of way or licenses for utilities or other similar services (e.g., cable television) across the common elements, with or without consideration.

Section 5.06. Restricted or Limited Common Elements. Certain portions of the common elements are irrevocably restricted in use to specified Unit Owners, subject to the right of the Board of Managers to enter upon any restricted area for maintenance, repair or improvement of a Unit or common element and subject to the rules of the Board of Managers (see Article VII of the By-Laws attached hereto as Schedule C). Any portion of the common elements which is not restricted in use may be used by any Unit Owner. The common elements are not subject to partition nor are they severable from the Units, except in accordance with the Real Property Law. Such irrevocably restricted common elements shall consist of the storage areas not located within Units, which are described more fully, located and assigned as indicated on Exhibit I, attached hereto, and as described in Section 4.07 of this Declaration.

## ARTICLE VI

### ALTERATION OF UNITS OR COMMON ELEMENTS

Section 6.01. Increases and Decreases in Size and Number of Units. Any Unit Owner or Owners shall have the right to divide or combine Units owned by such Unit Owner or Owners, so long as: (i) the combined or divided Unit is no less than 1056 square feet after the combination or division; (ii) the common interest appurtenant to such Units, after such division or combination, shall equal in total the common interest applicable to the Unit or Units divided or combined prior to combination; (iii) the written consent of the Board of Managers is obtained pursuant to Sections 6.04 through 6.08 of this Declaration; (iv) such proposed division or combination is in all respects lawful under the terms and provisions of the Real Property Law of the State of New York in effect at the time of the division or combination; and (v) such combination is in compliance with

all governmental laws, codes, ordinances and regulations. Among the factors to be considered by the Board of Managers in determining whether or not to consent to such combination are adequacy of the size, shape and location of all Units after such combination, the structural soundness of the Building during and after the performance of the necessary improvements, and any other factors which may affect the appearance or value of the Building, or which are set forth in Section 6.04 hereof. The cost of any such division or combination shall be the sole responsibility of the Owner or Owners of the Units being combined. Any such combination shall become effective upon the recording in the Monroe County Clerk's Office of an amendment to this Declaration (which amendment shall include, as appropriate, any necessary changes to the text of this Declaration and to any plot plan attached hereto), executed by the Board of Managers and by the Owners and mortgagees of the Unit or Units so combined, together with the filing of floor plans of the Unit or Units as combined with the certification by tax authorities of tax lot numbers conforming to the new Unit.

Section 6.02. No Other Additions or Structural Alterations to Units. No structural alterations shall be made to a Unit which would impair the structural soundness of any Unit or Building or which would cause an adverse material effect on the exterior appearance or value of the Building in which the Unit is located without the written approval of the Board of Managers, obtained as provided in Sections 6.04 through 6.08 of this Declaration.

Section 6.03. Alteration and Improvement of Common Elements.

- (a) By Board of Managers: The Board of Managers shall have the right, at its option, to make or cause to be made such alterations and improvements to the common elements as, in its opinion, may be beneficial or necessary or which are requested in writing by a Unit Owner(s) and the holders of first mortgages thereon, subject, however to the requirement that, if the alteration or improvement shall cost more than 25% of the then current estimated annual budget (including reserves of the Condominium), such alteration or improvement shall be approved by more than two-thirds (2/3) in number and in common interest of the Unit Owners, voting at a meeting duly called pursuant to the By-Laws. Such expenses shall constitute common expenses. Alterations or improvements costing 25% or less of the Condominium's then current estimated annual budget may be made by the Board of Managers and the cost thereof shall constitute a part of the common expenses. Before undertaking such work, the Board may require the consent in writing of such Unit Owners and the Eligible Mortgage Holders of such Units, holders of first mortgages thereon, whose rights, in the sole opinion of the Board, may be prejudiced by such alteration or improvement. In all cases of alteration or improvement, the Board of Managers shall comply fully with all governmental codes, laws, ordinances and regulations, including the terms and provisions of the Real Property Law of the State of New York in effect at the time of the proposed alteration or improvement.
- (b) By Unit Owners: No Unit Owner shall install any appliance or major appliance in the common elements or make any addition, alteration or improvement to the common elements: (i) which would in any way violate

any governmental law, code, ordinance or regulation (including the terms and provisions of the Real Property Law of the State of New York in effect at the time of the alteration or improvement); or (ii) without the prior written consent of any Unit Owners directly affected, and of the Board of Managers, obtained pursuant to Sections 6.04 through 6.08 of this Declaration. When the alteration or improvement to the common elements is pursuant to a combination of Units requested by a Unit Owner(s) it shall be governed by Section 6.01 of this Declaration.

Section 6.04. Submission of Plans to Board of Managers: Approval.

Any addition, alteration or improvement to the Units or common elements proposed by a Unit Owner pursuant to Sections 6.01 through 6.03 above shall require that a plan or plans therefor, in such form as the Board of Managers may require, be submitted to, reviewed and approved by the Board of Managers. The Board of Managers may charge and collect a reasonable fee for the examination of plans submitted for approval, including any fees which may be charged by architects, engineers or attorneys retained by the Board of Managers in connection with the review of such plans.

The Board of Managers may adopt simplified review procedures for any such additions, alterations or improvements which it shall deem minor or for which the submission of plans is not necessary.

The Board of Managers may disapprove such plans for any of the following reasons:

- (a) failure of such plans to comply with any protective covenants, conditions and restrictions contained in the Declaration, By-Laws, Rules or Regulations;
- (b) failure to include information in such plans as requested;
- (c) objection to the exterior design, appearance or materials of any proposed improvements, including without limitation, colors or color scheme, finish, proportion, style of architecture;
- (d) incompatibility of proposed improvements or use of proposed improvements with existing improvements;
- (e) failure of proposed improvements to comply with any zoning, building, health, or other governmental laws, codes, ordinances, rules and regulations, including the Real Property Law of the State of New York;
- (f) any other matter which in the judgment and sole discretion of the Board of Managers would render the proposed improvements, use or uses inharmonious or incompatible with the general plan of improvement of the Condominium, including any possible adverse impact on the use and enjoyment of the Property by any other Unit Owner(s).

Upon approval or qualified approval by the Board of Managers of any plans submitted pursuant to this Section, the Board of Managers shall notify the applicant in writing of such approval or qualified

approval, which notification shall set forth any qualifications or conditions of such approval, shall file a copy of such plans as approved for permanent record (together with such qualifications or conditions, if any), and, if requested by the applicant, shall provide the applicant with a copy of such plans bearing a notation of such approval or disqualified approval. Approval of any such plans relating to the common elements or to any Unit shall be final as to such alterations, modifications or improvements and such approval may not be revoked or rescinded thereafter provided: (i) that the improvements or uses shown or described on or in such plans do not violate any protective covenants, conditions or restrictions set forth in the Declaration, By-Laws or Rules and Regulations; and (ii) that such plans and any qualifications or conditions attached to such approval of the plans do not violate any applicable governmental law, rule or regulations, zoning, building, health or other code or ordinance, including the Real Property Law of the State of New York. Approval of any such plans shall not be deemed a waiver of the right of the Board of Managers to disapprove similar plans or any of the features or elements included therein if such plans, features or elements are subsequently submitted for use by other Unit Owner(s).

Section 6.05. Written Notification of Disapproval. In any case where the Board of Managers disapproves any plans submitted hereunder, the Board of Managers shall so notify the applicant in writing, together with a statement of the grounds upon which such action was based. In any such case, the Board of Managers shall, if requested and if possible, make reasonable efforts to assist and advise the applicant so that acceptable plans can be prepared and resubmitted for approval.

Section 6.06. Failure of Board to Act. If any applicant has not received notice from the Board of Managers, approving or disapproving any plans within 60 days after submission thereof, said applicant may notify the Board in writing of that fact. Such notice shall be sent by certified mail, return receipt requested. The plans shall be deemed approved by the Board 15 days after the date of receipt of such second notice, if no decision is rendered by the Board within said 15 day period.

Section 6.07. Board of Managers' Right to Promulgate Rules and Regulations. The Board of Managers may, from time to time, promulgate rules and regulations governing the form and content of plans to be submitted for approval or with respect to the approval or disapproval of certain types of alterations, modifications, or improvements to the common elements or Units; provided, however, that no such rule or regulation shall be deemed to bind the Board to approve or disapprove any plans submitted for approval, or to waive the exercise of the Board's discretion as to such plans; and provided further that no such rule or regulation shall be inconsistent with the provisions of the Declaration, By-Laws, or any applicable governmental law, code, ordinance, rule or regulation.

Section 6.08. Applications for Unit and Common Element Improvement Permits to be Executed by Board of Managers and Indemnification of Board; Insurance. Any application to any governmental authority to make an installation, addition, alteration or improvement to the common elements or any Unit shall be executed by the Board of Managers only; provided, however, that applications for any such installation, addition, alteration or improvement proposed by a Unit Owner pursuant to Sections 6.01 through 6.03 above shall be at the sole cost and expense of such Unit Owner; and provided further that this Article VI shall in no case be construed to result in the Board of Managers incurring any liability whatsoever to any Unit Owner, contractor, subcontractor, materialmen, architect or engineer on account of such installation, addition, alteration or

improvement proposed by a Unit Owner, or to any person having any claim for injury to person or property arising therefrom, and such Unit Owner agrees to indemnify and forever hold the Board harmless for any liability or expenses incurred by the Board in connection therewith, including reasonable attorneys' fees.

In connection with any installation or work done by a Unit Owner, the Board of Managers may require that the Unit Owner obtain such insurance coverages and/or completion bonds, and in such amounts, as the Board of Managers deems proper. In the event that the Board of Managers deems it necessary to expend funds, either to complete work previously commenced by a Unit Owner or to otherwise protect the appearance, value or structural integrity of the Condominium, such amounts shall become a binding personal obligation of the Unit Owner involved and a lien against the Unit.

Section 6.09. Liability of Board of Managers. No action taken by the Board of Managers or any member, subcommittee, employee or agent thereof, shall entitle any person to rely thereon, with respect to conformity with laws, regulations, codes or ordinances, or with respect to the physical or other condition of any Building or other portion of the Property. Neither the Condominium, nor the Board of Managers, nor any member, subcommittee, employee or agent thereof shall be liable to anyone submitting plans to them for approval or to any Unit Owner, or any other person, in connection with any submission of plans, or the approval or disapproval thereof, including without limitation, mistakes in judgment, negligence or misfeasance. Every person or other entity submitting plans to the Board of Managers agrees, by submission of such plans, that no action or suit will be brought against the Condominium or the Board of Managers (or any member, subcommittee, employee or agent thereof) in connection with such submission.

## ARTICLE VII

### EASEMENTS

Section 7.01. Unit Owner's Access to Unit. Each Unit Owner shall have a right of ingress and egress over the common element areas to such Owner's Unit subject only to the reasonable rules and regulations which the Board of Managers of the Condominium may impose from time to time.

Section 7.02. Utilities, Pipes and Conduits. Each Unit Owner shall have such easement of access to other Units and to the common elements, and each Unit shall be subject to such easements, as is reasonably necessary for such Unit Owner to maintain, repair and replace, as necessary, such Owner's Unit including, if any, pipes, wires and conduits running from the meters or equipment servicing such Unit to the Unit. Each Unit Owner shall also have an easement in common with the Owners of all other Units to use, in accordance with present use and present available facilities, all pipes, wires, ducts, cables, conduits, public utility lines and other common elements located in any of the other Units and serving the Unit or Units of such Unit Owner. Each Unit shall be subject to an easement in favor of the Owners of all other Units to use in accordance with present use and present available facilities the pipes, ducts, cables, wires, conduits, public utility lines and other common elements serving such other Units and located in such Unit.

Section 7.03. Access of Board of Managers. The Board of Managers, its agents, contractors and employees, shall have an easement and right of access to each Unit to inspect the same, to remove violations therefrom and for installation, maintenance, repair or improvements to any pipes, ducts, wires, cables, chutes, conduits, connections, fittings and public utility lines located or to be located in any Unit and servicing any other Unit, or to make repairs to the Unit to prevent damage to the common elements or to any other Unit. Said easement and right of access shall be exercised (unless in an emergency) at reasonable hours and upon reasonable notice to the Unit Owner involved. The cost of such maintenance, repairs, improvements or replacements shall be a common expense, except as provided in Section 7.02 of the By-Laws. The Board of Managers shall have a right of access to all common elements (irrespective of the restricted nature of such common elements) to remove violations and for inspection, maintenance, repair or improvement.

Section 7.04. Right of Board of Managers to Grant Easements, Licenses and Permits. Notwithstanding anything to the contrary which may be contained in this Declaration, the Board of Managers shall have the right to grant permits, licenses, easements and rights of way over the common element areas for: (i) utilities and other services (including, but not necessarily limited to, water, gas, electric, telephone, storm sewer, sanitary sewer, drainage and cable television), roadways, walkways and other purposes which the Board of Managers deems necessary or appropriate; and (ii) the placement of air conditioner compressors to service individual Units in the Condominium.

Section 7.05. Easement of Necessity. Each Unit shall have and each Unit shall be subject to all easements of necessity in favor of such Unit or in favor of other Units and the common elements.

## ARTICLE VIII

### VOTING RIGHTS

Section 8.01. Voting Rights Based on Interest in Common Elements. The Owner of each Unit shall be entitled to vote on all matters put to a vote at all meetings of Unit Owners.

## ARTICLE IX

### COMMON CHARGES - ALLOCATION, LIEN AND LIABILITY

Section 9.01. Allocation and Commencement of Common Charges. Except as otherwise permitted in this Article or the By-Laws, the common expenses shall be charged by the Board of Managers to the Unit Owners according to their respective percentage interests in the common elements. Notwithstanding the foregoing, the Board of Managers may elect to specifically allocate and apportion expenses between the Owners of Units, based upon the special or exclusive availability or use or control thereof by such Unit Owners of the common elements to which such expenses have been applied. Common charges shall commence on the date of recording of the first deed transferring title to a Unit.



Section 9.02. Common Charges Are Lien on Unit and Personal Obligation of Unit Owner. The common charges shall be paid when due. No Unit Owner may be exempted from liability for payment of common charges assessed against such Owner's Unit by waiver of the use or enjoyment of any of the common elements or by the abandonment of the Unit. All sums assessed as common charges by the Board of Managers of the Condominium, but unpaid, together with any accelerated installments, late charges as may be established by the Condominium By-Laws, interest thereon at such rate as may be fixed by the Board of Managers from time to time, such rate not to exceed the maximum rate of interest then permitted by law, and attorneys' fees and other costs and expenses incurred in efforts to collect such past due assessments, shall be the personal obligation of the Unit Owner and, to the extent permitted by law, shall constitute a lien upon the Unit prior to all other liens except: (i) tax or assessment liens on the Unit by the taxing subdivision of any governmental authority, including but not limited to State, County, Town and School District taxing agencies; and (ii) all sums unpaid on any mortgage of record encumbering the Unit and which is held by an Institutional Mortgagee as defined in Section 2.01 of this Declaration.

A purchaser of a Unit shall be liable for the payment of unpaid common charges assessed against such Unit prior to such purchaser's acquisition, except that a mortgagee or other purchaser who acquires title at a foreclosure sale, or an Institutional Mortgagee who acquires title to a Unit by a deed in lieu of foreclosure, shall not be liable for, and such Unit shall not be subject to, a lien for the payment of common charges assessed against such Unit, and which became due prior to such acquisition of title. In such event, the unpaid balance of common charges shall be charged to all other Unit Owners as a common expense.

Except as provided above, in the case of any conveyance of a Unit either by voluntary instrument, operation of law or judicial proceeding in accordance with this Declaration or the By-Laws, the grantee of the Unit shall be jointly and severally liable with the former Unit Owner for any unpaid common charges against the latter assessed and due up to the time of the grant or conveyance without prejudice to the grantee's right to recover from the former Unit Owner the amounts paid by the grantee therefor. "Grantee" as used herein shall not include either an Institutional Mortgagee or a purchaser of a Unit at a foreclosure sale of a mortgage held by an Institutional Mortgagee. No Unit Owner shall be liable for the payment of any common charges accruing subsequent to a sale, transfer or other conveyance by such Owner of such Unit made in accordance with applicable laws or the provisions of this Declaration and the By-Laws.

No Unit Owner may be exempt from liability for payment of common charges assessed against such Owner's Unit by waiver of the use or enjoyment of any of the common elements or by the abandonment of the Unit. Dissatisfaction with the quantity or quality of maintenance furnished to the Property shall not be grounds for withholding or failure to pay any common charge or special assessment.

## ARTICLE X

### BOARD OF MANAGERS

Section 10.01. Board of Managers. The affairs of the Condominium shall be governed and controlled pursuant to the Condominium By-Laws (attached hereto as Schedule C and

made a part hereof) by a Board of Managers who shall be elected and serve and shall have the duties and powers as provided in the By-Laws.

Section 10.02. Administration. Subject to the right of assignment as provided in Section 11.08 of this Declaration, the administration of the Condominium Property, including the Buildings and land (the Property) described herein shall be in accordance with the provisions of this Declaration and with the provisions of the Condominium By-Laws.

Section 10.03. Power of Attorney to Board of Managers. Each Unit Owner shall grant to the persons who shall from time to time constitute the Board of Managers, an irrevocable Power of Attorney, coupled with an interest, to acquire title to or lease any Unit whose owner desires to surrender, sell or lease the same, or which may be the subject of a foreclosure or other judicial sale, or any other Unit, in the name of the Board of Managers or its designee, corporate or otherwise, on behalf of all Unit Owners, and to convey, sell, lease, mortgage, vote the votes appurtenant thereto or otherwise deal with any such Unit so acquired or to sublease any Unit so leased by the Board of Managers.

Section 10.04. Acquisition of Units by Board of Managers. In the event: (a) any Unit Owner shall surrender such Unit Owner's Unit, together with (i) the undivided interest in the common elements appurtenant thereto; (ii) the interest of such Unit Owner in any other Units acquired by the Board of Managers or its designee on behalf of all Unit Owners or the proceeds of the sale, or lease thereof, if any; and (iii) the interest of such Unit Owner in any other assets of the Condominium (hereafter collectively called the "Appurtenant Interests") pursuant to the provisions of Section 339-x of the Real Property Law of the State of New York; or (b) the Board of Managers shall purchase at a foreclosure or other judicial sale, or in any other manner acquire, a Unit, together with the Appurtenant Interests, title to any such Unit, together with the Appurtenant Interests shall be held by the Board of Managers or its designee, corporate or otherwise, on behalf of all Unit Owners, in proportion to their respective common interests. The lease covering any Unit leased by the Board of Managers, or its designees, on behalf of all Unit Owners, shall be held by the Board, or its designee, on behalf of all Unit Owners in proportion to their respective common interests.

## ARTICLE XI

### OBLIGATIONS, RESPONSIBILITIES, COVENANTS, AND RESTRICTIONS

Section 11.01. All Owners, Tenants and Occupants Subject to Condominium Documents Which Run With the Land. All present or future Unit Owners, tenants, occupants, or any other person that might use the Units or the facilities of the Property in any manner, are subject to the provisions of the Declaration, the By-Laws and Rules and Regulations of the Condominium as they may be amended from time to time. The acceptance of a deed or conveyance or the entering into of a lease, or the entering into of occupancy of any Unit shall signify that the provisions of this Declaration and the By-Laws and Rules and Regulations of the Condominium are accepted and

ratified by such Owner, tenant or occupant, and all of such provisions 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 such Units, as though such provisions were recited and stipulated at length in each and every deed or conveyance or lease thereof.

Section 11.02. Units to be Properly Maintained. Unit Owners shall maintain their Units in good order and overall appearance.

Section 11.03. Mortgages on Units. Any Unit Owner who mortgages such Owner's Unit shall promptly provide the Board of Managers with the name and address of the mortgagee.

Section 11.04. Notice to Mortgagees. The Board of Managers shall give written notice to the holders of mortgages encumbering Units which notice is required by various provisions of this Declaration and the Condominium By-Laws to those mortgagees which have notified the Board of Managers of their name and address or who have caused the mortgagor/Unit Owner to give such notice.

Section 11.05. No Nuisances. No nuisances shall be allowed upon the Property nor shall any use or practice be allowed which is a source of annoyance to residents or which interferes with the peaceful possession and proper use of the Property by its residents.

Section 11.06. No Immoral or Unlawful Use. No immoral, improper, offensive or unlawful use shall be made of the Property nor any part thereof and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

Section 11.07. Obligation to Maintain Utility Service. Regardless of whether the Unit is occupied, the owner thereof shall be obligated to maintain sufficient utility service to prevent damage to other Units or to the common elements. If such service is not maintained by the Owner, the Board of Managers shall have the right to immediately arrange for such service, upon such notice to the Owner as is practical under the circumstances and without notice in emergency situations. If such service must be arranged by the Board of Managers, any costs incurred shall be collectible in the same manner as common charges and shall constitute a lien on the Unit involved and a personal obligation of the Unit Owner(s).

Section 11.08. Rules and Regulations. Rules and regulations promulgated by the Board of Managers concerning the use of the Property shall be observed by the Unit Owners, provided however, that copies of such rules and regulations are furnished to each Unit Owner prior to the time the said rules and regulations become effective.

## ARTICLE XII

### AMENDMENT AND TERMINATION

Section 12.01. Amendment. Except as otherwise provided in this Declaration, this Declaration may be modified, altered, amended or added to at, or pursuant to a vote taken during a specified canvass period after any duly called meeting of Unit Owners provided that:

- (a) A notice of the meeting containing a full statement of the proposed modification, alteration, amendment or addition has been sent to all Unit Owners and all Eligible Mortgage Holders as listed on the books and records of the Condominium at least 30 days and not more than 50 days prior to the date set for said meeting; and
- (b) 67% or more in number and in common interest of all Unit Owners approve the change; and
- (c) The Board of Managers does not, prior to the date established for voting on the proposed change, receive written notification of opposition to the change from Eligible Mortgage Holders of 51% or more of the number of Units subject to mortgages held by Eligible Mortgage Holders; and
- (d) An instrument evidencing the change is duly recorded in the Office of the Monroe County Clerk. Such instrument need not contain the written consent of the required number of Unit Owners, but shall contain a certification by the Board of Managers of the Condominium that the consents required by this Section 12.01 for such change have been received and filed with the Board of Managers.

Section 12.02. Amendment by Board of Managers to Correct Errors. Notwithstanding Section 12.01 above, the Board of Managers may make amendments to this Declaration, consistent with the current provisions of the Condominium Act and this Declaration to correct omissions or errors, which amendments shall not adversely modify substantial rights of any Unit Owner or Eligible Mortgage Holder without the written permission of such Unit Owner or Eligible Mortgage Holder. Such amendment(s) need only be signed by the Board of Managers.

Section 12.03. Termination. The Condominium shall not be terminated or abandoned except as provided for by law. In addition to any requirements of law, termination shall require: (1) the consent of at least 80% of all Unit Owners in number and in common interest; and (2) the approval of Eligible Mortgage Holders of at least 67% in number and common interest of all Units subject to mortgages held by Eligible Mortgage Holders except that where the termination is because of substantial destruction or condemnation of the Condominium Property, such termination shall require the approval of only 51% in number and common interest of all Units subject to mortgages held by Eligible Mortgage Holders.

## ARTICLE XIII

### GENERAL

Section 13.01. Service of Process. Service of process on the Unit Owners in any action with relation to the common elements shall be made upon: Board of Managers of the Lake Breeze or on the Secretary of State as agent of the Board of Managers by personally delivering to and leaving with him or her or his or her deputy, or with any person authorized by the Secretary of State to receive such service, at the office of the Department of State in the City of Albany, duplicate copies of such process together with the statutory fee, which shall be a taxable disbursement. The Condominium's Board of Managers shall also file with the Secretary of State the name and post office address within or without this State to which the Secretary of State shall mail a copy of any process against it served upon the Secretary of State and shall update the filing as necessary.

Section 13.02. Invalidity. The invalidity of any provision of this Declaration shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration and, in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

Section 13.03. Waiver. No provision 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.

Section 13.04. Captions. The captions herein are inserted only as a matter of convenience and reference, and in no way define, limit or describe the scope of this Declaration nor the intent of any provision hereof.

Section 13.05. Gender. The use of the masculine gender in this Declaration shall be deemed to refer to the feminine gender whenever the context so requires.

**SCHEDULE A**

**DESCRIPTION OF CONDOMINIUM PROPERTY**

**Parcel 1**

Lot No. 1 of Lake Breeze Subdivision Map by Herman J. Klingenberger dated August 18, 1983 beginning at a point, said point being the intersection of the easterly boundary line of land now or formerly owned by Danalan Properties, Inc. as described in a deed recorded in the Monroe County Clerk's office in Liber 6256 of Deeds, Page 293, and the northerly boundary line of Latta Road, thence

1. westerly along the northerly boundary line of Latta Road a distance of 390.00 feet to the westerly boundary line of said land owned by Danalan Properties, Inc., thence
2. northerly along the said westerly boundary line of land owned by Danalan Properties, Inc. making an interior angle of  $89^{\circ} 38' 50''$  a distance of 507.84 feet, thence
3. easterly along a line making an interior angle of  $89^{\circ} 55' 31''$  a distance of 104.47 feet, thence
4. southerly along a line making an interior angle of  $90^{\circ} 00'$  a distance of 52.84 feet, thence
5. easterly along a line making an exterior angle of  $90^{\circ} 00'$  a distance of 205.27 feet, thence
6. southerly along a line making an interior angle of  $90^{\circ} 00'$  a distance of 58.78 feet, thence
7. easterly along a line making an exterior angle of  $90^{\circ} 00'$  a distance of 80.40 feet to the said easterly boundary line of land owned by Danalan Properties, Inc., thence
8. southerly along the said easterly boundary line of land owned by Danalan Properties, Inc., making an interior angle of  $90^{\circ} 04' 29''$  a distance of 393.39 feet to the point of beginning.

EXCEPTING AND RESERVING THEREFROM, for the benefit of premises retained by Danalan Properties, Inc., adjoining the above described premises on the north the following described easements:

- A. A Non-exclusive easement for public utility easement over a strip of land 10 feet in width adjoining the east line of the above described premises and extending from the north line of Latta Road to the north line of the above described premises.
- B. A Non-exclusive easement for ingress and egress over a strip of land 45 feet in width adjoining the west line of the above described premises and extending from the northerly line of Latta Road to the north line of the above described premises.

Parcel 2

All that tract or parcel of land situated in the City of Rochester, County of Monroe, State of New York and being more particularly bounded and described as follows:

Commencing at a point in the centerline of Latta Road where the same is intersected by the boundary line between lands owned now or formerly by Daniel Leary and Maria Abrams, et al. Said point being 856.70 feet westerly from the west village line of the former Village of Charlotte;

- Thence (A) Northerly and forming an angle in the northeast quadrant of  $89^{\circ}38'50''$  and along the Westerly line of lands owned formerly by Maria Abrams, et al a distance of 540.84 feet more or less to the southerly line of lands acquired by the City of Rochester by In-Rem Deed dated November 2, 1990 and filed in the Monroe County Clerk's Office in Liber 8021 of deeds at page 560 also being the true point or place of beginning;
- Thence (1) Northerly along the westerly line of lands owned by the City of Rochester a distance of 92.92 feet more or less to a point. Said point being 249.24 feet southerly from the northwest corner of said City's land.
- Thence (2) Easterly forming an interior angle of  $90^{\circ}21'10''$  and parallel to the northerly line of Latta Road a distance of 390.00 feet to the easterly line of said City of Rochester's land;
- Thence (3) Southerly along the easterly line of the City's land and forming an interior angle of  $89^{\circ}38'50''$  a distance of 207.45 feet more or less to the southeast corner of said City's land;
- Thence (4) Westerly along the southerly line of said City's land and forming an interior angle of  $89^{\circ}55'31''$  a distance of 80.40 feet to a point;
- Thence (5) Northerly and forming an interior angle of  $90^{\circ}00'00''$  a distance of 58.78 feet to a point;
- Thence (6) Westerly along the southerly line of said City's land and forming an interior angle of  $270^{\circ}00'00''$  a distance of 205.27 feet to a point;
- Thence (7) Northerly and forming an interior angle of  $90^{\circ}00'00''$  a distance of 52.84 feet to a point;
- Thence (8) Westerly along the southerly line of said City's land and forming an interior angle of  $90^{\circ}00'00''$ , a distance of 104.47 feet to the point or place of beginning.

Hereby intending to convey 1.300 + Acres from the southerly end of land acquired by the City of Rochester.

Being part of the same Premises acquired by the City of Rochester by In-Rem Deed recorded in the Monroe County Clerk's Office on November 5, 1990 and filed in Liber 8021 of deeds at page 560.

## SCHEDULE B

### UNIT DESIGNATIONS/SQUARE FOOTAGE/PERCENTAGE INTERESTS IN COMMON ELEMENTS/ACCESS TO COMMON ELEMENTS

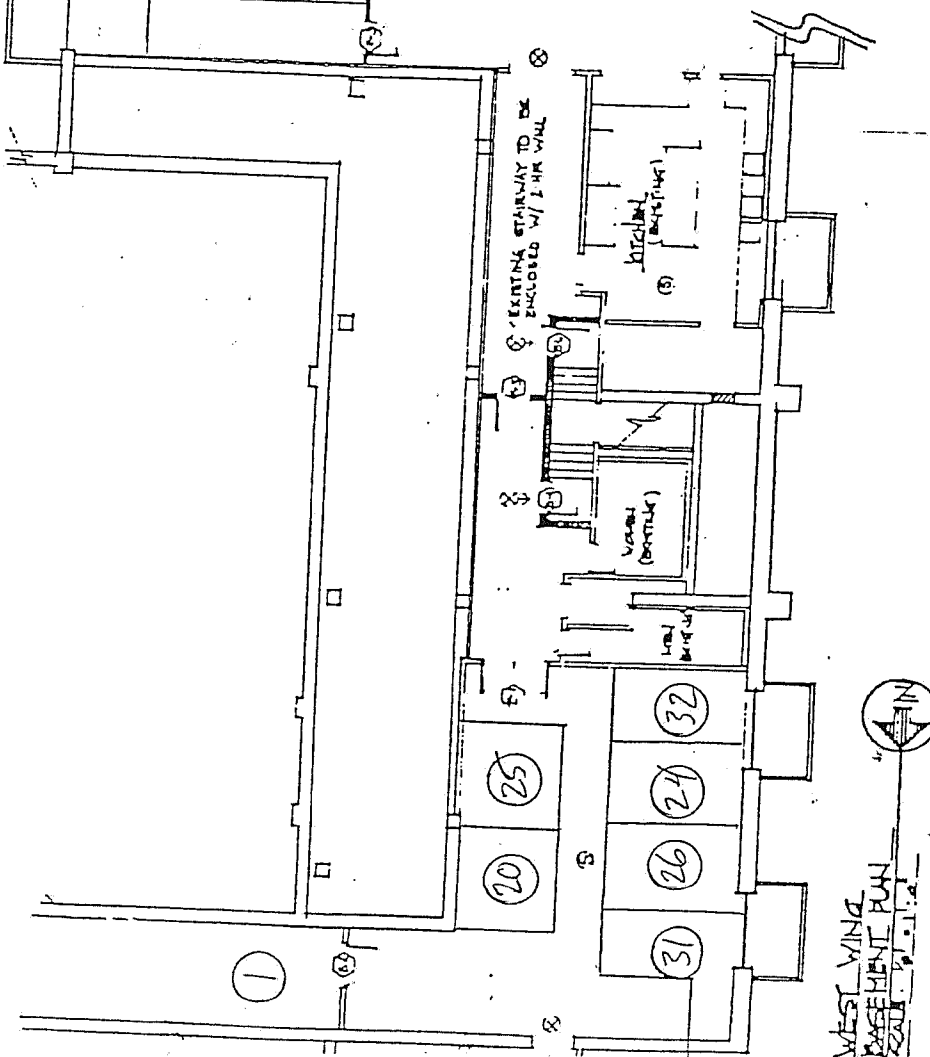
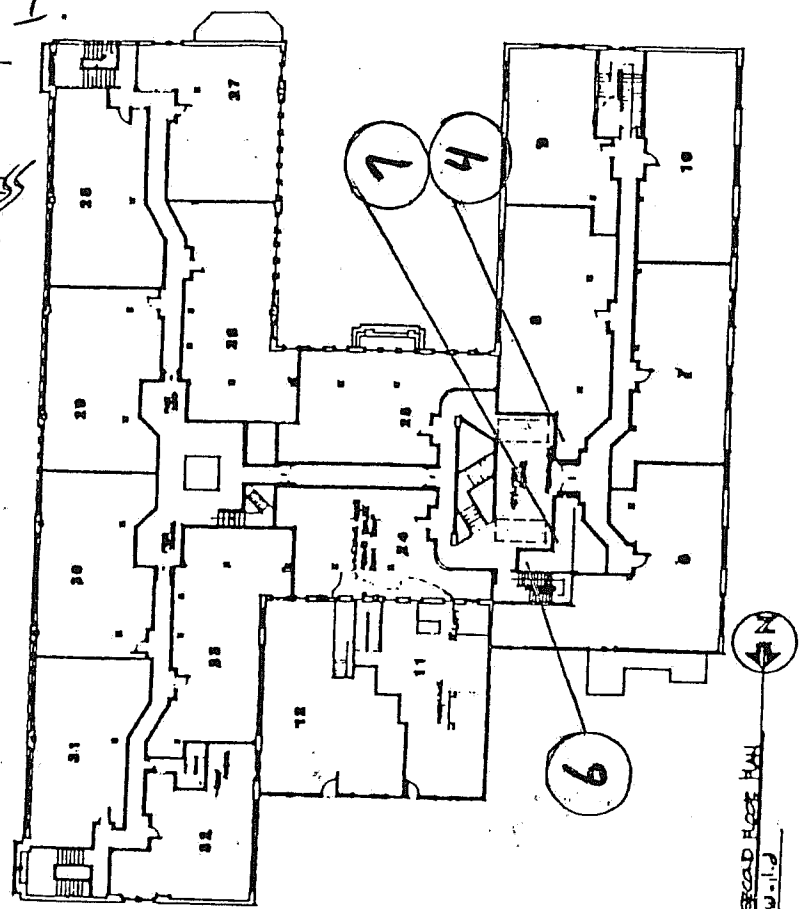
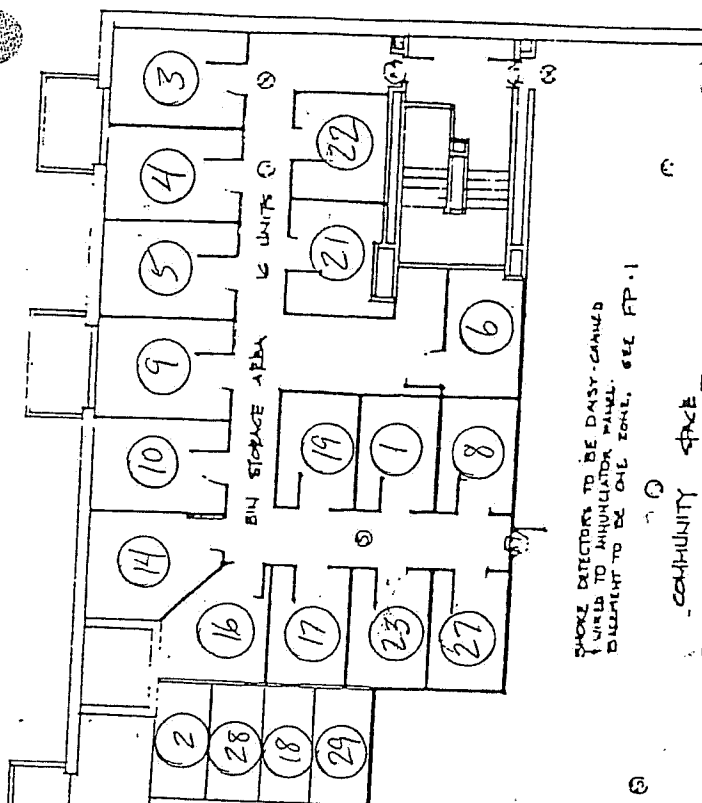
<u>Residential Unit</u>	<u>Address</u>	<u>Floor Area in sq. ft.</u>	<u>Percent Interest</u>
1	270 Latta Road	2020	3.98%
2	270 Latta Road	1446	2.85%
3	270 Latta Road	1535	3.01%
4	270 Latta Road	1275	2.51%
5	270 Latta Road	1476	2.91%
6	270 Latta Road	2040	4.02%
7	270 Latta Road	1480	2.92%
8	270 Latta Road	1725	3.40%
9	270 Latta Road	1340	2.64%
10	270 Latta Road	1515	2.98%
11	270 Latta Road	1120	2.21%
12	270 Latta Road	2020	3.98%
13	270 Latta Road	1650	3.25%
14	270 Latta Road	1510	2.98%
15	270 Latta Road	1525	3.01%
16	270 Latta Road	1510	2.98%
17	270 Latta Road	1470	2.90%
18	270 Latta Road	1420	2.80%
19	270 Latta Road	1760	3.50%
20	270 Latta Road	1505	2.97%
21	270 Latta Road	1725	3.40%
22	270 Latta Road	1405	2.77%
23	270 Latta Road	1160	2.29%
24	270 Latta Road	1440	2.84%
25	270 Latta Road	1440	2.84%
26	270 Latta Road	1680	3.31%
27	270 Latta Road	1456	2.87%
28	270 Latta Road	1415	2.78%
29	270 Latta Road	1520	3.00%
30	270 Latta Road	1520	3.00%
31	270 Latta Road	1415	2.78%
32	270 Latta Road	1460	2.88%
33	270 Latta Road	1748	3.44%

The percentage interest of each Unit in the common elements has been determined upon the basis of the approximate proportion of the floor area of the Unit to the aggregate floor area of all Units.

Each Unit has access to the common areas, driveways, parking areas and lawns.



# EXHIBIT I.



**LAKE BREEZE CONDOMINIUM  
ASSIGNMENT OF STORAGE SPACES  
OUTSIDE THE UNITS May 12, 2005**

OWNER	BASEMENT	SECOND FLOOR
1		
2	2	
3	1	
4	1	
5	1	1
6	1	1
7		1
8	1	
9	1	
10	1	
11	1 BELOW THE UNIT	
12	1 BELOW THE UNIT	
13	NONE	
14	1	
15	NONE	
16	1	
17	1	
18	1	
19	1	
20	1	
21	1	
22	1	
23	1	
24	1	
25	1	
26	1	
27	1	
28	1	
29	1	
30	NONE	
31	1	
32	1	
33	NONE	
<b>Totals</b>	<b>27</b>	<b>3</b>