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DECLARATION OF HORIZONTAL PROPERTY OWNERSHIP

WATERBURY

HORIZONTAL PROPERTY REGIME

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DECLARATION OF HORIZONTAL PROPERTY OWNERSHIP

WATERBURY

HORIZONTAL PROPERTY REGIME

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DECLARATION OF HORIZONTAL PROPERTY OWNERSHIP

WATERBURY

HORIZONTAL PROPERTY REGIME

THIS DECLARATION, made this 10th day of July, 1974, by COLLEGE LIFE DEVELOPMENT CORPORATION, an Indiana corporation (referred to herein as "Declarant"),

WITNESSETH:

WHEREAS, the following facts are true:

A. Declarant is the sole owner of the fee simple title to the following described real estate located in Marion County, Indiana, to-wit:

A part of the Northeast Quarter of Section 17, Township 17 North of Range 3 East in Marion County, Indiana, being more particularly described as follows:

Beginning at the Northwest corner of the said Quarter Section, thence North 89 degrees 14 minutes 13 seconds East along the North line of said Quarter Section 362.00 feet; thence South 00 degrees 45 minutes 47 seconds East 338.43 feet; thence South 14 degrees 45 minutes 47 seconds East 98.49 feet; thence North 89 degrees 14 minutes 13 seconds East 144.17 feet; thence South 00 degrees 45 minutes 47 seconds East 337.61 feet to a point on the North right of way of Interstate 465 per Deed recorded as Instrument #66-62964 in the Office of the Recorder of said County; thence South 89 degrees 11 minutes 52 seconds West along said right of way 548.16 feet to a point on the West line of said Quarter Section; thence North 00 degrees 35 minutes 04 seconds East along said West line 772.20 feet to the Place of Beginning, containing 7.904 acres, more or less.

Subject to right of way for 96th Street being 50.0 feet by parallel lines off the entire North side of tract.

(hereinafter referred to as "Phase I").

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B. Declarant, by executing and recording this Declaration or a Supplemental Declaration or Declarations, creates a Horizontal Property Regime upon the Tract, subject to the provisions of the Horizontal Property Act of the State of Indiana and the terms and conditions of this Declaration.

NOW, THEREFORE, Declarant hereby makes this Declaration as follows:

1. Definitions. The following terms, as used in this Declaration, unless the context clearly requires otherwise, shall mean the following:

(a) "Act" means the Horizontal Property Act of the State of Indiana, Acts 1963, Chapter 349, Sections 1 through 31, as amended. The Act is incorporated herein by reference.

(b) "Additional Tract" means the real estate described

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in paragraph 16, which may in part or in whole from time to time be annexed to and included within Waterbury as provided in paragraph 16.

(c) "Association" means the unincorporated association of Co-owners of Waterbury, more particularly described in paragraph 13.

(d) "Base Value" means the base value applicable to a particular Dwelling Unit as determined in accordance with the Formula contained in paragraph 16, such Formula being based upon the number of square feet in the Dwelling Unit. The Base Value for each Dwelling Unit in Phase I is shown on Exhibit "A" attached hereto and the Base Value for each Dwelling Unit in each subsequent Phase shall be designated by Declarant upon filing of the appropriate Supplemental Declaration. Base Value shall for all purposes remain as so designated even though actual measurement may reveal some deviation in the square footage upon which the Base Value is determined.

(e) "Board of Managers" means the governing body of the Association elected by the Co-owners in accordance with the By-Laws. The term "Board of Managers," as used herein and in the By-Laws, shall be synonymous with the term "Board of Directors" as used in the Act.

(f) "Building" means one of the structures on the Tract in which the Dwelling Units are located. The Buildings are more particularly described and identified in the Plans and in paragraph 3 of this Declaration.

(g) "By-Laws" means the By-Laws of the Association providing for the administration and management of the Property as required by and in conformity with the provisions of the Act. A true copy of the By-Laws is attached to this Declaration and incorporated herein by reference.

(h) "Waterbury" means the name by which the Property and the Horizontal Property Regime created hereby shall be known.

(i) "Common Areas" means the common areas and facilities appurtenant to the Property as defined in Paragraph 6 of this Declaration.

(j) "Common Expenses" means expenses of administration of the Association, expenses for the upkeep, maintenance, repair and replacement of the Common Areas

and Limited Areas, except as otherwise expressly provided in this Declaration or the By-Laws, and all sums lawfully assessed against the Owners by the Association or as declared by the Act, this Declaration or the By-Laws.

(k) "Co-owners" means the owners of all the Dwelling Units.

(l) "Corporation" means the not-for-profit corporation, Waterbury Recreational Area, Inc., more fully described in paragraph 21, which may be formed for the purpose of owning, operating and maintaining the Recreational Area for the benefit of the Residents.

(m) "Dwelling Unit" means one of the individual Living Units located in a Building on the Tract. Each individual Dwelling Unit is more particularly described and identified on the Plans and in paragraphs 4 and 5 of this Declaration.

(n) "Formula" means the method set forth in paragraph 16 of this Declaration for computing the adjustment to be made to the Percentage Interest appertaining to each Dwelling Unit as each Phase is annexed to Waterbury.

(o) "Exclusive Parking Area" shall mean the carport, garage and/or parking areas intended and designed to serve and be used exclusively by the Owner of a particular Dwelling Unit as shown and designated on the Plans.

(p) "Limited Areas" means the limited common areas and facilities as defined in paragraph 7 of this Declaration.

(q) "Living Unit" shall mean each Dwelling Unit in Waterbury and shall also mean with respect to that part of the Additional Tract which is not annexed to Waterbury in accordance with paragraph 16 hereof, each single and multi-family unit which may be constructed upon that part of the Additional Tract not annexed.

(r) "Mortgagee" means the holder of a first mortgage lien on a Dwelling Unit.

(s) "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity or any combination thereof who owns the fee simple title to a Dwelling Unit.

(t) "Percentage Interest" means the percentage of undivided interest in the fee simple title to the Common Areas and Limited Areas appertaining to each Dwelling Unit as determined in accordance with paragraphs 8 and 16 of this Declaration.

(u) "Percentage Vote" means that percentage of the total vote accruing to all of the Dwelling Units which is appurtenant to each particular Dwelling Unit and accrues to the Owner thereof. The Percentage Vote to which each Owner shall be entitled on any matter upon which the Co-owners are entitled to vote shall be the same percentage as the Percentage Interest appurtenant to such Owner's Dwelling Unit.

(v) "Phase" means a part of the Tract upon which Dwelling Units are constructed and annexed to Waterbury as provided in paragraph 16. Each particular Phase shall be identified by a Roman numeral designation corresponding to the chronological order of annexation.

(w) "Plans" means the floor and building plans of the Buildings and Dwelling Units in Phase I and a site plan, survey and elevation of the Tract and Buildings prepared by Paul I. Cripe, Inc., certified by James E. Dankert, a registered land surveyor and engineer, under date of JUNE 5, 1974, all of which is attached hereto, recorded herewith and incorporated herein by reference. "Plans" shall also include the Supplemental Plans which shall be prepared, verified and filed with each Supplemental Declaration, depicting the layout, elevation, location, building numbers and dwelling unit numbers, and dimensions of the Dwelling Unit for the Dwelling Units which are constructed on the Phases of the Additional Tract when and if annexed to and made a part of Waterbury.

(x) "Property" means the Tract and appurtenant easements, the Dwelling Units, the Buildings, Improvements, and property of every kind and nature whatsoever, real, personal and mixed, and all replacements thereof, now or hereafter located upon the Tract and used in connection with the operation, use and enjoyment of Waterbury.

(y) "Recreational Area" means the real estate described in Paragraph 21, and the recreational facilities

and other improvements constructed thereon.

(z) "Resident" means any person who resides in a Living Unit.

(aa) "Tract" means the real estate described in paragraph A above and referred to as Phase I, together with the particular Phases of the Additional Tract when and if annexed to Waterbury.

2. Declaration. Declarant hereby expressly declares that the Property shall be a Horizontal Property Regime in accordance with the provisions of the Act.

3. Description of Buildings. There are eight (8) Buildings containing fifty-two (52) Dwelling Units in Phase I as shown on the Plans. The Buildings are identified and referred to in the Plans and in this Declaration as Buildings II, III, IV, V, VI, VII, VIII and IX. The Buildings in the Additional Tract, or Phases thereof, if annexed, shall be identified numerically, the exact number of Buildings and Dwelling Units to be identified and referred to in the Supplemental Declaration and Supplemental Plans annexing such Phase or Phases to Waterbury.

4. Identification of Dwelling Unit. Each Dwelling Unit is identified by an arabic number on the Plans.

The legal description for each Dwelling Unit shall consist of the identifying arabic number.

5. Description of Dwelling Units.

(a) Appurtenances. Each Dwelling Unit shall consist of all space within the boundaries thereof as hereinafter defined and all portions of the Building situated within such boundaries, including but not limited to all fixtures, facilities, utilities, equipment, appliances, and structural components designated and intended solely and exclusively for the enjoyment, use and benefit of the Dwelling Unit wherein the same are located, or to which they

are attached, but excluding therefrom that designed or intended for the use, benefit, support, safety or enjoyment of any other Dwelling Unit or which may be necessary for the safety, support, maintenance, use and operation of any of the Buildings or which are normally designed for common use; provided, however, that all fixtures, equipment and appliances designed or intended for the exclusive enjoyment, use and benefit of a Dwelling Unit shall constitute a part of such Dwelling Unit, whether or not the same are located within or partly within or without the boundaries of such Dwelling Unit. The interior surface of all doors and windows in the perimeter walls of a Dwelling Unit, whether or not located within or partly within the boundaries of a Dwelling Unit, and all interior walls within the boundaries of a Dwelling Unit, are considered part of the Dwelling Unit.

(b) Boundaries. The boundaries of each Dwelling Unit shall be as shown on the Plans without regard to the existing construction measured between the upper surface of the floor joist or slabs to which the sub-floor is attached, lower surface of the ceiling joist, and the interior surface of the wall studs in the perimeter walls to which the finished walls of each Dwelling Unit are attached. In the case of town house Dwelling Units or Dwelling Units constituted of two or more stories, the vertical boundaries shall run from the upper surface of the lowest floor joist or slab to the lower surface of the highest ceiling joist and, except as otherwise provided in paragraph 5(a), shall include the ceilings and floors in between. In the event any horizontal or vertical boundary line as shown on the Plans does not coincide with the actual location of the respective wall, floor or ceiling of the Dwelling Unit because of inexactness of construction, settling after construction, or for any other reasons, the boundary lines of each Dwelling Unit shall be deemed to be and treated for purposes of occupancy, possession, maintenance, decoration, use and enjoyment, as in accordance with the actual existing construction. In such case, permanent easements for exclusive use shall exist in favor of the Owner of each Dwelling Unit in and to such space lying outside of the actual boundary line of the Dwelling Unit, but within the appropriate wall, floor or ceiling of the Dwelling Unit.

6. Common Area and Facilities. Common Areas means and includes (1) the Tract, (2) the foundations, columns, girders, beams, supports

and roofs of the Buildings, (3) the yards, gardens, sidewalks and driveways except for those driveways designed to serve a particular Exclusive Parking Area, (4) central electricity, gas, water, and sanitary sewer mains serving the Buildings, (5) exterior lighting fixtures and electrical service lighting the exterior of the Buildings except where separately metered to a particular Dwelling Unit, (6) pipes, ducts, electrical wiring and conduits, public utility lines and central television antenna wiring, (7) floors, ceilings and perimeter walls, except that portion within the boundaries of a Dwelling Unit and except interior walls of all Dwelling Units, (8) all facilities and appurtenances located outside of the boundary lines of the Dwelling Units, except those areas and facilities expressly defined as Limited Areas, (9) the Recreational Area if it is annexed to Waterbury as provided in paragraph 21 of this Declaration.

7. Limited Common Areas and Facilities. Limited Areas and those Dwelling Units to which use thereof is limited are as follows:

(a) Exclusive Parking Area. The Exclusive Parking Area shall be limited to the exclusive use of a particular Dwelling Unit as designated on the Plans. The use of such Exclusive Parking Area shall pass with title to the Dwelling Unit for which such Area is designated, even though not expressly mentioned in the document passing title. The Exclusive Parking Area and use thereof shall be subject to such rules and regulations as the Board of Managers may deem appropriate and adopt. An Owner may grant a license to any other Owner to use all or part of his Exclusive Parking Area, providing such license shall expire when the Owner granting the license ceases to be an Owner of the Dwelling Unit for which the Exclusive Parking Area is designated. Any such license agreement shall be in writing and an executed copy thereof shall be furnished to the Board of Managers and the licensee shall be bound by and subject to all the obligations of the Owner with respect to such Exclusive Parking Area; provided, however, that

the Owner granting such license shall not be relieved thereby from any of his obligations regarding such Exclusive Parking Area.

(b) Exterior Surfaces. The exterior surface of doors and windows and the perimeter walls in each Dwelling Unit shall be limited to the exclusive use of the Dwelling Unit to which they appertain.

(c) Porches and Entranceways. The porches, entranceways, hallways and stairs through which access to a Dwelling Unit is obtained are limited to the use of the Dwelling Unit or Dwelling Units served by such entranceway, porch, hallway and stairs, as designated on the Plans.

(d) Patios and Balconies. The patios, balconies, courtyards and decorative walls and fences are limited to the use of the Dwelling Unit or Dwelling Units to which they are appurtenant as designated on the Plans.

(e) Driveways. The driveways, walkways and similar areas used for access to particular individual Dwelling Units are limited to the use of the Dwelling Units so served.

8. Ownership of Common Area and Percentage Interest. Each Owner shall have an undivided interest in the Common Areas and Limited Areas as tenants in common with all other Owners equal to his Dwelling Unit's Percentage Interest. Each Dwelling Unit's Percentage Interest in the Common Areas and Limited Areas shall be determined in accordance with the Formula set forth in paragraph 16 of this Declaration.

So long as Waterbury consists only of Phase I, each Dwelling Unit's Percentage Interest shall be as set forth in Exhibit "A." If any Phase of the Additional Tract is annexed to Waterbury as permitted and contemplated by paragraph 16 of this Declaration, upon execution and recording of the applicable Supplemental Declaration, the Percentage Interest of each Dwelling Unit in the Phase or Phases which are a part of Waterbury prior to such annexation will automatically reduce in accordance with the Formula, and the balance of such Percentage Interest

shall revert to the Declarant, his successors and assigns. The Owners of Dwelling Units in the Phase or Phases which are a part of Waterbury prior to such annexation shall be granted and receive a Percentage Interest in the Common Area and Limited Areas of such Phase of the Additional Tract being annexed to Waterbury, the precise Percentage Interest to be determined according to the Formula and designated in the Supplemental Declaration annexing such Phase or Phases. The method of determining the Percentage Interest as set forth in this paragraph 8 and paragraph 16 shall not be altered without the unanimous consent of all the Co-owners.

The Percentage Interest appertaining to each Dwelling Unit as determined by paragraph 16 shall also be the Percentage Vote allocable to the Owner thereof in all matters with respect to Waterbury and the Association upon which the Co-owners are entitled to vote, including but not limited to the election of the Board of Managers.

9. Encroachments and Easements for Common Areas. If, by reason of the location, construction settling, or shifting of a Building, any Common Area or Limited Area now encroaches or shall hereafter encroach upon any Dwelling Unit, then in such event an easement shall be deemed to exist and run to the Co-owners and the Association for the maintenance, use and enjoyment of such Common Area or Limited Area.

Each Owner shall have an easement in common with each other Owner to use all pipes, wires, ducts, cables, conduits, utility lines and other common facilities located in any of the other Dwelling Units, Common Areas or Limited Common Areas and serving his Dwelling Unit.

10. Real Estate Taxes. Real estate taxes are to be separately taxed to each Dwelling Unit as provided in the Act. In the event

that for any year real estate taxes are not separately assessed and taxed to each Dwelling Unit, but are assessed and taxed on the Tract, Additional Tract and Recreational Area, or any part thereof, as a whole, then each Owner shall pay his proportionate share of the real estate taxes. Each Owner's proportionate share shall be determined as follows:

(a) With respect to the real estate taxes assessed against the land, the amount of such taxes shall be multiplied by a fraction, the numerator of which is the total acreage constituting Waterbury not separately assessed and the denominator of which is the total acreage which is assessed as a whole.

(b) With respect to the real estate taxes assessed against the improvements, the amount of such taxes shall be multiplied by a fraction, the numerator of which is the total Base Value of all Dwelling Units which are a part of Waterbury at the time of such assessment and are not separately assessed and the denominator of which is the total Base Value of all Living Units which are assessed as a whole.

(c) Each individual Owner's proportionate share shall then be determined by multiplying the sum of the products obtained in (a) and (b) above by a fraction, the numerator of which is the Base Value of each Owner's Dwelling Unit not separately assessed and the denominator of which is the total Base Value of all Dwelling Units in Waterbury not separately assessed.

11. Utilities. Each Owner shall pay for his own utilities which are separately metered. Utilities which are not separately metered shall be treated as and paid as part of the Common Expenses.

12. Easement for Utilities and Public and Quasi-Public Vehicles. All public and quasi-public vehicles, including but not limited to police, fire and other emergency vehicles, trash and garbage collection, post office vehicles and privately owned delivery vehicles, shall have the right to enter upon the streets, Common Areas and

Limited Areas of Waterbury in the performance of their duties. An easement is also granted to all utilities and their agents for ingress, egress, installation, replacement, repairing and maintaining of such utilities, including but not limited to water, sewers, gas, telephones and electricity on the Property; provided, however, nothing herein shall permit the installation of sewers, electric lines, water lines, or other utilities, except as initially designed and approved by Declarant or as thereafter may be approved by the Board of Managers. By virtue of this easement the electric and telephone utilities are expressly permitted to erect and maintain the necessary equipment on the Property and to affix and maintain electric and telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of the Buildings.

13. Association of Owners. In order to provide for the maintenance, repair, replacement, administration and operation of the Property and in compliance with the provisions of the Act, there is hereby created an association of the Co-owners of the Dwelling Units in Waterbury to be known as the Waterbury Co-owners Association. Each Owner shall be a member of the Association, but membership shall terminate when such person ceases to be an Owner, and will be transferred to the new Owner.

The Association shall elect a Board of Managers annually in accordance with and as prescribed by the By-Laws. The Co-owners shall be entitled to cast their Percentage Vote for the election of the Board of Managers.

The Board of Managers shall be the governing body of the Association, representing all of the Co-owners in providing for the management, maintenance, repair, replacement and upkeep of the Property.

14. Maintenance, Repairs and Replacements. Each Owner shall, at his expense, be responsible for the maintenance, repairs, decoration and replacement within the interior of his own Dwelling Unit and Exclusive Parking Area, and the heating, air conditioning and other equipment serving his Dwelling Unit unless otherwise provided in the By-Laws. Each Owner shall repair any defect occurring in his Dwelling Unit which, if not repaired, might adversely affect any Dwelling Unit, Common Area or Limited Area. Maintenance, repairs, replacements and upkeep of the Common Areas and, except as otherwise provided, Limited Areas, shall be furnished by the Association as part of the Common Expenses.

The Board of Managers shall adopt such rules and regulations concerning maintenance, repairs, use and enjoyment of the Common Areas and Limited Areas as it deems appropriate.

The Board of Managers or their designated agent shall have the right at reasonable times and upon reasonable prior notice (except in cases of emergency in which case no notice shall be required), to enter into each individual Dwelling Unit for the purposes of inspection of the Common Areas and Limited Areas appurtenant thereto and replacement, repair and maintenance of the same.

15. Alterations, Additions and Improvements. No Owner shall make any alterations or additions to the Common Areas or Limited Areas without the prior written approval of the Board of Managers, nor shall any Owner make any alterations to his respective Dwelling Unit and within the boundaries thereof which would affect the safety or structural integrity of the Building in which the Dwelling Unit is located.

16. Annexation of Additional Tract. Declarant anticipates that it will construct additional Dwelling Units on the Additional Tract,

all or part of which may be annexed to Waterbury in the manner hereinafter set forth. The Additional Tract consists of approximately 26.660 acres, the legal description of which is as follows:

A part of the Northeast Quarter of Section 17, Township 17 North of Range 3 East in Marion County, Indiana, being more particularly described as follows:

Beginning at a point on the North line of said Quarter Section 730.00 feet North 89 degrees 14 minutes 13 seconds East of the Northwest corner of said Quarter Section; thence North 89 degrees 14 minutes 13 seconds East upon and along the North line of said Quarter Section 1439.20 feet, (said point being 518.59 feet South 89 degrees 14 minutes 13 seconds West of the Northeast corner of said Quarter Section); thence South 00 degrees 32 minutes 43 seconds West 303.75 feet; thence South 15 degrees 57 minutes 13 seconds West 472.47 feet to a point on the North right of way line of Interstate 465 per Deed recorded as Instrument #66-62964 on December 15, 1966 in the Office of the Recorder of said County; thence, North 86 degrees 13 minutes 42 seconds West along said right of way line 320.91 feet; thence South 85 degrees 23 minutes 01 second West along said right of way line 601.33 feet; thence South 89 degrees 11 minutes 52 seconds West along said right of way line 576.49 feet; thence North 00 degrees 45 minutes 47 seconds West 305.61 feet; thence North 89 degrees 14 minutes 13 seconds East 90.00 feet; thence North 00 degrees 45 minutes 47 seconds West 24.00 feet; thence North 89 degrees 14 minutes 13 seconds East 110.00 feet; thence North 00 degrees 45 minutes 47 seconds West 442.00 feet to the Point of Beginning, containing 25.600 acres, more or less, and also

A part of the Northeast Quarter of Section 17, Township 17 North of Range 3 East in Marion County, Indiana, being more particularly described as follows:

Beginning at a point on the North line of said Quarter Section, North 89 degrees 14 minutes 13 seconds East of the Northwest corner of said Quarter Section 362.00 feet; thence South 00 degrees 45 minutes 47 seconds East 338.43 feet; thence South 14 degrees 45 minutes 47 seconds East 98.49 feet; thence North 89 degrees 14 minutes 13 seconds East 85.17 feet; thence North 00 degrees 45 minutes 47 seconds West 434.00 feet to a point on the North line of said Quarter Section; thence South 89 degrees 14 minutes 13 seconds West along the said North line 109.00 feet to the point of beginning, containing 1.060 acres, more or less.

Subject to right of way for 96th Street being 50.0 feet by parallel lines off the entire North side of tract.

At any time prior to December 31, 1980, Declarant at its option may, but is not obligated to, cause all or part of the Additional Tract to be annexed to Waterbury in Phases subject to the following conditions:

(a) No Phase may be annexed until all of the Dwelling Units to be constructed in such Phase have been substantially completed and the Supplemental Plans to be filed with the Supplemental Declaration are completed, certified to by the engineer or architect as fully and accurately depicting the layout, location and dimension of the Dwelling Units as built.

(b) The Dwelling Units on any Phase to be annexed shall be constructed with labor and material of comparable quality as Dwelling Units previously constructed on the Tract although not necessarily of similar type floor plan, design or exterior.

(c) Declarant shall be the sole owner of the fee simple title to the Phase to be annexed.

Declarant expressly reserves the right not to annex to Waterbury any or all of the Additional Tract. No Owner shall have any rights whatsoever in the Additional Tract except as to those Phases which are annexed to and made a part of Waterbury.

The Percentage Interest appurtenant to each Dwelling Unit shall be based on the ratio that the Base Value for a Dwelling Unit bears to the total Base Value of all Dwelling Units now or hereafter annexed to Waterbury. As all of the Dwelling Units shall be constructed with labor and materials of comparable quality, the comparable Base Value of each Dwelling Unit shall be conclusively deemed to be the relative value of each Dwelling Unit with relation to the Property as a whole. The Base Value for each Dwelling Unit shall be determined as follows:

(a) The Base Value of any Dwelling Unit with 1,300 square feet or less shall be one.

(b) The Base Value of any Dwelling Unit with more than 1,300 square feet shall be equal to one

plus .001 times the amount of square feet in such Dwelling Unit in excess of 1,300.

The square footage applicable to any Dwelling Unit as that term is used means the area within the perimeter walls of the Dwelling Unit, but excluding the appurtenant patio, balcony and courtyard areas.

For example, Dwelling Unit 10 contains 1,464 actual square feet of living area within its perimeter walls. The Base Value of such Dwelling Unit would be determined as follows:

> 1,464 total square feet less 1,300 square feet equals 164 additional square feet. 164 times .001 equals .164 Base Value points. .164 plus 1 equals 1.164 as the Base Value for Dwelling Unit 10.

The Percentage Interest appurtenant to each Dwelling Unit shall be computed and upon the annexation of an additional Phase, recomputed, as set forth in the following Formula:

> The Base Value of each Dwelling Unit shall be divided by the total Base Value of all the Dwelling Units in Waterbury. The resulting quotient multiplied by 100 shall be the Percentage Interest of each Dwelling Unit. Upon annexation of an additional Phase the same method shall be utilized to recalculate the Percentage Interest of each Dwelling Unit using as the divisor the total Base Value of all Dwelling Units including the Base Value of the Dwelling Units being annexed. The quotient shall be rounded off to the fourth decimal place with minor adjustments thereof to be made by Declarant, so that the resulting total of all Percentage Interest shall always be exactly 100.

For example, upon recording this Declaration the Percentage Interest of Dwelling Unit 10 has been determined by dividing its Base Value 1.164 by 57.364, the total Base Value of all Dwelling Units in Phase I. The resulting Percentage Interest of Dwelling Unit 10 is 2.03% (rounded off). Assuming that Phase II is subsequently annexed and that the Base Value of all Dwelling Units in Phase II is 65, the resulting new Percentage Interest of Dwelling Unit 10 shall

be determined by dividing 1.164 by 122.364 and multiplying the quotient .0095 (rounded off) by 100 to result in a Percentage Interest of .95.

As each Phase is developed, Declarant shall record a Supplemental Declaration annexing and adding such Phase to this Declaration and making it a part of Waterbury. Such Supplemental Declaration shall contain the following:

(a) A description of the real estate to be annexed;

(b) A description of the Buildings and Dwelling Units described in a manner consistent with this Declaration;

(c) The Percentage Interest of all Dwelling Units in Waterbury upon annexation, computed in accordance with the Formula.

A copy of the form of Supplemental Declaration as will be applicable to each Phase is attached hereto, made a part hereof, and marked Exhibit "B." The identification of Buildings, Dwelling Units, Base Value and Percentage Interest contained in the attached Supplemental Declaration is assumed for illustrative purposes only.

Each Owner, by acceptance of a deed to a Dwelling Unit, acknowledges, consents and agrees that the following rights and conditions shall be applicable upon the recording of each Supplemental Declaration:

(a) The Phase described in each Supplemental Declaration shall be governed in all applicable respects by the provisions of this Declaration.

(b) The Percentage Interest appurtenant to each Dwelling Unit shall be automatically reallocated in accordance with the schedule set forth in such Supplemental Declaration which shall be based upon the Formula. On recording of each Supplemental Declaration, the amount by which the Percentage Interest of a Dwelling Unit is reduced shall thereby be deemed to release and

divest that amount from such Dwelling Unit Owner and revert to the Declarant, its successors and assigns.

(c) Each deed, mortgage or other instrument affecting a Dwelling Unit shall be deemed given subject to the limitation that the Percentage Interest appurtenant to each Dwelling Unit shall, upon the recording of each Supplemental Declaration, be altered in accordance with the Supplemental Declaration, based upon the Formula.

(d) The Percentage Interest in the Common Areas and Limited Areas appurtenant to each Dwelling Unit shall be deemed to include any additional Common Areas and Limited Areas annexed hereto by a Supplemental Declaration, which Supplemental Declaration shall grant and convey to the Owners the appropriate Percentage Interest, and each deed, mortgage or other instrument affecting a Dwelling Unit shall be deemed to include such additional Common Areas and Limited Areas, and the ownership of any Dwelling Unit and lien of any mortgage shall automatically include and attach to such additional Common Area and Limited Area upon recording of such Supplemental Declaration.

(e) The recording of a Supplemental Declaration shall not alter the amount of the lien for Common Expenses assessed to a Dwelling Unit in a Phase already a part of Waterbury prior to such recording. The lien for the pro rata share of Common Expenses for the Phases annexed upon such recording shall be assessed and paid as provided in Section 5.04 of the By-Laws.

(f) Each Owner agrees for himself and all those claiming under him, including Mortgagees, that this Declaration and each Supplemental Declaration is and shall be deemed to be in accordance with the Act and for the purpose of this Declaration and the Act, any changes in Percentage Interest as set forth in any Supplemental Declaration which is in accordance with the Formula expressed herein shall be deemed to be made by agreement of all Owners.

(g) Each Owner agrees to execute and deliver such documents as are necessary or desirable to accomplish the annexation of the Phases in the Additional Tract in accordance with the provisions and intent of this paragraph 16.

(h) Each Owner, by acceptance of a deed to a Dwelling

Unit, shall thereby appoint Declarant or its nominee as such Owner's attorney in fact for the purpose of reallocating from time to time the Percentage Interest appurtenant to such Owner's Dwelling Unit in accordance with the provisions of this paragraph 16, and, to the extent required by law to carry out the intent of this paragraph 16, on behalf of such Owner to consent to or vote in favor of the amendment of this Declaration. The appointment of Declarant or its nominee as such attorney in fact and the granting of such special power to Declarant or its nominee shall be deemed to be coupled with an interest, shall be irrevocable and binding upon the heirs, successors and assigns of such Owner, but shall expire when all of the Additional Tract has been annexed to Waterbury on December 31, 1980, whichever first occurs.

In the event Declarant does not elect to annex to Waterbury the Additional Tract or any part thereof, as permitted by this paragraph 16, Declarant shall file a Supplemental Declaration which shall permanently remove that part of the Additional Tract that has not been annexed from any right to be made a part of Waterbury provided, however, any Phase for which a Supplemental Declaration has not been filed by December 31, 1980, shall be automatically removed from the possibility of becoming a part of Waterbury in the manner provided in this Declaration. Upon the filing of such Supplemental Declaration removing a part of the Additional Tract from the possibility of becoming a part of Waterbury in accordance with this Declaration, or December 31, 1980, whichever comes first, the Percentage Interest designated in the Declaration or Supplemental Declaration last filed shall not be altered without the unanimous consent of all Owners.

17. Easements to and from Additional Tract. In the event all or any part of the Additional Tract is not annexed to Waterbury, Declarant reserves unto itself, its successors and assigns, for the use and benefit of that part of the Additional Tract not annexed, the right

and easement to enter upon the streets and Common Areas of Waterbury and the Recreation Area described in paragraph 21 hereof to provide ingress and egress to the Additional Tract. It is the purpose and intent of the easements herein granted or reserved to provide free and unrestricted use and access across the roadways and sidewalks of the Tract and the Recreation Area for the owners and Residents of the Additional Tract, their guests, invitees and all public and quasi-public vehicles.

Declarant also grants an easement of ingress and egress over the roadways of the Recreation Area to the Owners, Residents and Mortgagees of the Tract, and their guests and invitees.

The easements granted and reserved in this paragraph 17 shall be easements and covenants running with the land and accruing to the benefit of the Additional Tract and Phase I and shall continue until the Additional Tract and Recreation Area has all been annexed to Waterbury.

18. Insurance. The Association, acting through its Board of Managers, shall obtain fire and extended coverage insurance insuring the Property in an amount equal to the full replacement cost thereof as determined by a qualified appraiser, the amount determined and the insurance renewed at least every three (3) years. The cost of any appraisal shall be a Common Expense. Such insurance shall:

(1) Provide that notwithstanding any provisions thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Owners do not elect to restore pursuant to paragraph 19, and

(2) Contain a "Replacement Cost Endorsement."

Such insurance coverage shall be for the benefit of the Association, each Owner, and, if applicable, the Owner's Mortgagee. The proceeds shall be payable to the Association, who shall hold such proceeds as trustee for the individual Owners and Mortgagees as their interests

appear. The proceeds shall be used or disbursed only in accordance with the provisions of this paragraph 18 and paragraph 19 of the Declaration, as applicable, and any surety bond or bonds obtained by the Board covering the officers of Waterbury as provided in the By-Laws shall specifically include protection for any insurance proceeds so received.

The Association shall also obtain comprehensive public liability insurance in such limits as the Board of Managers shall deem appropriate, together with Workmen's Compensation Insurance and other liability insurance, if deemed necessary or appropriate by the Board of Managers. Such insurance shall inure to the benefit of each individual Owner, the Association, the Board of Managers, and any Managing Agent or company acting on behalf of the Association.

The premiums for all such insurance shall be paid by the Association as part of the Common Expenses.

Each Owner shall have the right to purchase such additional insurance as he may deem necessary, and each Owner shall be solely responsible for loss or damage to the contents of his own Dwelling Unit, however caused, including all floor and wall coverings, and fixtures and betterments installed by the Owner, and his personal property stored elsewhere on the Property, and neither the Association or any Owner or Resident shall have any liability to any other Owner for loss or damage to the contents of such other Owners' Dwelling Units, except where such damage has been deliberately and intentionally caused. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk.

19. Casualty and Restoration. In the event of damage or destruction of the Property by fire or other casualty, the following provisions shall be applicable:

(a) Partial Destruction. In the event that less than two-thirds of the Dwelling Units are destroyed by the occurrence of fire or other casualty, then the Association shall cause the Property to be promptly repaired and restored. The proceeds of the insurance carried by the Association shall be applied to the cost of such restoration.

If the insurance proceeds are not adequate to cover the cost of reconstruction or in the event there are no proceeds, each individual Owner shall have the responsibility for restoring his own Dwelling Unit at his own expense and the insurance proceeds, if any, shall be equitably divided among the Owners of the damaged Dwelling Units. The division of such proceeds shall be determined by the insurance company insuring the Building or Buildings, and when so determined in good faith shall be binding upon all Owners and Mortgagees.

If any Owner, or Owners, refuses or fails to restore his Dwelling Unit, the other Owners (or the Association, if such other Owners fail) shall complete the restoration and pay the cost thereof, and the costs attributable to the Owner or Owners who refuse or fail to make such payments at the time required by the Board of Managers shall become a lien on such defaulting Owners' Dwelling Units and may be foreclosed in the same manner as provided for the lien for Common Expenses.

(b) Restoration in the Event of Two-Thirds Destruction. In the event that more than two-thirds of the Dwelling Units are destroyed by fire or other casualty, then restoration of the Dwelling Units must be approved within one hundred twenty (120) days from the date of damage or destruction by no less than a majority of the total Percentage Vote. If such approval is not obtained, the Property shall be deemed owned in common by all of the Owners and the provisions of Section 21 of the Act shall apply.

(c) Restoration, for purposes of subparagraphs (a) and (b) above, shall mean construction or rebuilding of the Dwelling Units to the same condition as they existed immediately prior to the destruction and with a similar type of architecture.

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20. Sale or Lease of Dwelling Unit by Owner. For the purpose of maintaining the congenial and residential character of Waterbury and for the protection of the Co-owners with regard to financially responsible residents, sale or lease of a Dwelling Unit by an Owner other than Declarant shall be subject to the following conditions and restrictions:

(a) Lease. It is in the best interest of all the Owners that those persons residing in Waterbury have similar proprietary interests in their Dwelling Units and be Owners. Accordingly, no Owner shall lease his Dwelling Unit or enter into any other rental or letting arrangement for his Dwelling Unit without the prior written consent of the Board of Managers. Such consent shall not be unreasonably withheld. No lease for a term longer than one year, however, shall be approved. Any Owner desiring to enter into a lease for his Dwelling Unit shall make written application to the Board of Managers, which application shall state the reasons why the applicant wishes to lease the Dwelling Unit, the name of the proposed tenant, and financial references of the proposed tenant. Within ten (10) days following the receipt of the application, the Board of Managers shall issue its written approval or disapproval to the Owner. In the event the Board fails to issue written approval or disapproval within such period, the application shall for all purposes be deemed approved.

(b) Sale. The Association shall have the right of first refusal to purchase any Dwelling Unit which an Owner wishes to sell. Any Owner wishing to sell who receives a bona fide offer to purchase shall promptly give written notice to the Board of Managers of his desire to sell, together with the name and address of the intended purchaser, and the terms and conditions of such offer. Within fourteen (14) days after the receipt of such notice, the Board of Managers shall determine if it should recommend exercise of the right to purchase or waive the right to purchase. In the event the Board of Managers elects to waive the right to purchase, a certificate in recordable form, executed by the President or Secretary of the Association, certifying that the Association, through its Board of Managers, has waived its right to purchase, shall be delivered to the Owner, who may then proceed to sell and convey his Dwelling Unit to that person and upon the same

terms and conditions as set forth in the Owner's notice to the Board of Managers. In the event the sale is not completed within ninety (90) days following the date of such certificate, then the Dwelling Unit shall again become subject to the Association's right of first refusal as herein provided.

In the event the Board of Managers deems it advisable to exercise the Association's right to purchase the Dwelling Unit, then it shall give written notice thereof to the Owner and shall, within twenty-one (21) days following the receipt of such notice from the Owner wishing to sell, call a meeting of all the Co-owners for the purpose of voting upon the proposed purchase. If the recommendation of the Board of Managers to purchase such Dwelling Unit is approved by no less than seventy-five per cent (75%) in the aggregate of the total Percentage Vote, then the Association shall proceed to purchase the offered Dwelling Unit from the offering Owner upon the same terms and conditions contained in the offer. The purchase price for the Dwelling Unit shall be considered to be a Common Expense and borne by the remaining Co-owners, provided, however, that the Owner who has made the offer to sell his Dwelling Unit shall not be assessed for or required to pay his pro rata share of the expense incurred in the purchase of the Dwelling Unit.

Legal title to the Dwelling Unit shall be conveyed to the Association as an entity or to those persons then serving as Board of Managers, as trustees for the benefit of the Co-owners, whichever the Board of Managers, in their sole discretion, deems appropriate.

In the event that the proposed purchase is not approved by the required percentage of the Co-owners as set out above, then the Board of Managers, through the President or Secretary of the Association, shall promptly deliver a certificate in recordable form to the offering Owner who may proceed to sell his Dwelling Unit under the same terms and conditions as if the Board of Managers had not elected to recommend the exercise of the right of the Association to purchase.

If, for any reason, either the Board of Managers or the Co-owners shall fail to act on the Association's right of first refusal within the time periods herein provided, then the Association's right of first refusal shall be deemed to have been effectively waived.

If the Association shall purchase a Dwelling Unit in accordance with this paragraph 20, the Board of Managers shall have the authority at any time thereafter to sell or lease the Dwelling Unit upon the terms and conditions as the Board of Managers shall, in their sole discretion, deem desirable, without application to or approval of the Co-owners. The proceeds of any such sale shall be returned to the Co-owners in the same percentage as they had contributed to the purchase. In the event the Board of Managers elect to lease such Dwelling Unit, then the lease rental payments shall be applied against the Common Expenses.

The above provisions with respect to the Association's right to approve a lease of a Dwelling Unit or the right to purchase a Dwelling Unit shall remain in full force and effect until the Property is removed from the provisions of the Act or until the expiration of twenty (20) years from the date of this Declaration, whichever first occurs.

Any sale or attempted sale, or any lease or attempted lease by an Owner of his Dwelling Unit, except in accordance with the provisions of this paragraph 20, shall be void, provided, however, that any certificate waiving the Association's right to purchase executed by the Association and delivered to an Owner as provided by this paragraph may be relied upon by any purchaser or Mortgagee and shall, with respect to such purchaser or Mortgagee, be absolutely binding upon the Association and the Co-owners unless such purchaser or Mortgagee has actual knowledge that the certificate was procured fraudulently or by reason of a misrepresentation of a material fact.

(c) Limitations to Mortgagee. With respect to a Mortgagee that is a bank, life insurance company or savings and loan association, the provisions of subparagraphs (a) and (b) of this paragraph 20 shall be limited in their application as follows:

(i) The provisions of subparagraph (b) shall not be applicable to a conveyance of a Dwelling Unit to such Mortgagee as a result of a foreclosure of its mortgage or a conveyance in lieu thereof or to the conveyance of a Dwelling Unit to any person at a public sale in the manner provided by law with respect to mortgage foreclosures. The provisions of subparagraph (b) shall be applicable to and binding upon such Mortgagee or other person so obtaining title to a Dwell-

ing Unit with respect to any subsequent transfer or conveyance of the Dwelling Unit.

(ii) The provisions of subparagraph (a) shall not be applicable to such Mortgagee if such Mortgagee acquires possession of a Dwelling Unit during the period while a foreclosure proceeding is pending or to such Mortgagee who obtains title to a Dwelling Unit as a result of foreclosure of its mortgage or a conveyance in lieu thereof. The provisions of subparagraph (a) shall be binding upon any other person obtaining title to the Dwelling Unit from such Mortgagee or at any foreclosure or other judicial sale.

The provisions of this subparagraph (c) may not be amended without the consent of all of such Mortgagees.

21. The Corporation and Recreational Area. Declarant intends to construct certain recreational facilities including a pool, tennis court and clubhouse facility, on real estate contiguous to Waterbury more particularly described as follows:

A part of the Northeast Quarter of Section 17, Township 17 North of Range 3 East in Marion County, Indiana, being more particularly described as follows:

Beginning at a point on the North line of said Quarter Section; that is North 89 degrees 14 minutes 13 seconds East of the Northwest corner of said Quarter Section 471.00 feet; thence South 00 degrees 45 minutes 47 seconds East 434.00 feet thence North 89 degrees 14 minutes 13 seconds East 59.00 feet; thence South 00 degrees 45 minutes 47 seconds East 32.00 feet; thence North 89 degrees 14 minutes 13 seconds East 90.00 feet; thence North 00 degrees 45 minutes 47 seconds West 24.00 feet; thence North 89 degrees 14 minutes 13 seconds East, 110.00 feet; thence North 00 degrees 45 minutes 47 seconds West 442.00 feet to a point on the North line of said Quarter Section; thence South 89 degrees 14 minutes 13 seconds West along said North line 259.00 feet to the point of beginning, containing 2.667 acres, more or less.

Subject to right of way for 96th Street, being 50.00 feet by parallel lines off the entire North side of subject tract.

The Recreational Area shall be for the benefit, use and enjoyment of the Residents.

If all of the Additional Tract is annexed to Waterbury in the manner provided in paragraph 16 hereof, then upon annexation of the final portion of the Additional Tract to Waterbury, the Recreational Area shall thereupon be annexed to and become a part of Waterbury and shall become a part of the Tract as that term is defined and used throughout this Declaration and By-Laws.

In the event that all of the Additional Tract is not annexed to Waterbury within the time limits and in the manner provided in paragraph 16 of this Declaration, then, prior to the expiration of the time limits for annexation or the filing of the Supplemental Declaration by Declarant electing not to annex the balance of the Additional Tract to Waterbury, Declarant shall cause to be organized, formed and incorporated a not-for-profit corporation to be named Waterbury Recreational Area, Inc., or such similar name as permitted by law. Declarant shall convey the real estate and improvements constituting the Recreational Area to the Corporation and the Corporation shall maintain, operate, administer, replace and repair the Recreational Area for the use and benefit of the Residents. The membership of the Corporation shall be comprised of and be limited to the Owners, Residents and the Owners of the Living Units, and, in certain cases, persons appointed by Class "A" members. Each Owner shall be obligated to become and remain a member for so long as he is the Owner of a Dwelling Unit in Waterbury or a Living Unit on the Additional Tract.

In the event that the Corporation is formed and the Recreational Area conveyed to the Corporation, then the following shall be applicable:

(a) The Corporation shall have three classes of membership, Class "A," Class "B" and Class "C."

(i) Class "A" members shall be each Owner of a Dwelling Unit in Waterbury and each Owner of a Living Unit located on the Additional Tract. Each Class "A" member shall be entitled to one vote for each Living Unit which such member owns.

(ii) Class "B" members shall be any Resident who is not a Class "A" member. Class "B" members shall not be entitled to any vote, and shall not serve as a Director of the Corporation.

(iii) Class "C" members shall be any officers, employees or agents appointed by Class "A" members, where such Class "A" member is a corporation, trust, partnership or similar entity. Class "C" members shall not be entitled to any vote, but may serve as a Director of the Corporation.

Membership in the Corporation shall terminate when a member ceases to be a Resident or an Owner of any Living Unit or, in the case of a Class "C" member appointed by a Class "A" member, when such appointment is terminated.

(b) The Class "A" and Class "B" members of the Corporation shall have the right to use and enjoy the Recreational Area in accordance with the rules and regulations adopted by the Board of Directors of the Corporation from time to time.

(c) The costs of owning, operating and maintaining the Recreational Area and the Corporation shall be borne by the Class "A" members. Such costs shall be assessed equally against each Living Unit with each Class "A" member paying an amount equal to the number of Living Units which he owns divided by the total number of Living Units. Such costs shall constitute a lien on each Dwelling Unit, and in the case of Living Units not a part of Waterbury, then upon the real estate upon which the Living Units are constructed. The lien and the payment of the costs which it secures shall arise and be paid in the manner provided in the Code of By-Laws of the Corporation. The operation of the Corporation and the Recreational Area and the rights and obligations of its members shall be more fully described in the Corporation's Articles of Incorporation and By-Laws.

During the Interim Period as that term is defined in Section 5.04 of the By-Laws of the Regime, the costs of operation, repair and maintenance of the Recreational Area shall be deemed to be Common Expenses as if the Recreational Area constituted a portion of the Common Areas. During such period each Owner's share of such costs shall be included in the Interim Assessment applicable to his Dwelling Unit.

22. Covenants and Restrictions. The covenants and restrictions applicable to the use and enjoyment of the Dwelling Units are set forth in the By-Laws. These covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner, the Co-owners or by the Association. Present or future Owners or the Association shall be entitled to injunctive relief against any violation or attempted violation of these provisions and shall be entitled to damages for any injuries resulting from any violations thereof, but there shall be no right of reversion or forfeiture of title resulting from such violation.

23. Amendment of Declaration. Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

(a) Notice. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting at which the proposed amendment is considered.

(b) Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Managers or the Owners of at least a majority of the Percentage Vote.

(c) Meeting. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly held in accordance with the provisions of the By-Laws.

(d) Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than seventy-five per cent (75%) in the aggregate of the Percentage Vote. In the event any Dwelling Unit is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the Mortgagee has given prior notice of its mortgage interest to the Board of Managers in accordance with the provisions of the By-Laws.

(e) Special Amendments. No amendment to this Declaration shall be adopted which changes:

(1) The Percentage Interest with respect to any Dwelling Unit or the applicable share of an Owner's liability for the Common Expenses, without the approval of one hundred per cent (100%) of the Co-owners, except as otherwise provided in paragraphs 8 and 16 relating to annexation of the Additional Tract, or

(2) The provisions of paragraph 19 of this Declaration with respect to reconstruction or repair in the event of fire or casualty, without the unanimous approval of all Mortgagees whose mortgage interests have been made known to the Board of Managers in accordance with the provisions of the By-Laws, or

(3) The provisions of paragraph 16 of this Declaration except by Declarant in the manner provided therein, or

(4) The provisions of paragraph 17 of this Declaration without the consent of the Declarant.

(f) Recording. Each amendment to the Declaration shall be executed by the President and Secretary of the Association and shall be recorded in the Office of the Recorder of Marion County, Indiana, and such amendment shall not become effective until so recorded.

24. Acceptance and Ratification. All present and future Owners, Mortgagees, tenants and occupants of the Dwelling Units shall be subject to and shall comply with the provisions of this Declaration, the

Act, the By-Laws appended hereto, and the rules and regulations as adopted by the Board of Managers as each may be amended from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Dwelling Unit shall constitute an agreement that the provisions of this Declaration, the Supplemental Declarations, the Act, the By-Laws and any rules and regulations adopted pursuant thereto, as each may be amended from time to time, are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Dwelling Unit or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. Each Owner agrees to execute and deliver such other documents, if any, as may be necessary or desirable to comply with the Act as it may be amended from time to time. All persons, corporations, partnerships, trusts, associations, or other legal entities who may occupy, use, enjoy or control a Dwelling Unit or Dwelling Units or any part of the Property in any manner shall be subject to the Declaration, the Act, the By-Laws, and the rules and regulations applicable thereto as each may be amended from time to time.

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

26. Costs and Attorneys' Fees. In any proceeding arising because of failure of an Owner to make any payments required or to comply with any provision of the Declaration, the Act, the By-Laws, or the rules and regulations adopted pursuant thereto as each may be amended from time to time, the Association shall be entitled to recover its reasonable attorneys' fees incurred in connection with such default or failure.

27. Waiver. No 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 or Limited Areas or by abandonment of his Dwelling Unit.

28. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration or the By-Laws filed herewith shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration or the attached By-Laws.

29. Floor Plans. The Plans, as described in paragraph 1(w) of this Declaration, are incorporated into this Declaration by reference, and have been filed in the Office of the Recorder of Marion County, Indiana, in Horizontal Property Plan File No._____, as of _____ July 10, 19 74, as Instrument No. 74-4238.1

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed the day and year first above written.

COLLEGE LIFE DEVELOPMENT CORPORATION

By: H. L. Pfiang
Vice President

ATTEST:

Secretary

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STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared H L Pfaus and Ronald C. Davis, by me known, and by me known to be the Vice President and Secretary, respectively, of College Life Development Corporation, who acknowledged the execution of the above and foregoing Declaration of Horizontal Property Ownership for and on behalf of said Corporation.

WITNESS my hand and notarial seal this 10th day of July, 19 74.

(SEAL)

Virginia P. Baun
Notary Public

VIRGINIA P. BAUN
(signature printed)

My Commission Expires:

August 25, 1975

This Instrument prepared by Jerry Harner, Attorney at Law

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EXHIBIT A

SCHEDULE OF PERCENTAGE INTEREST AND BASE VALUE
OF DWELLING UNITS - PHASE I
WATERBURY HORIZONTAL PROPERTY REGIME

Dwelling Unit	Base Value	Square Footage	Percentage Interest
8	1.000	1280	1.75
9	1.220	1520	2.12
10	1.164	1464	2.03
11	1.000	1296	1.75
12	1.000	1296	1.75
13	1.000	1296	1.75
14	1.000	1296	1.75
15	1.034	1334	1.80
16	1.228	1528	2.14
17	1.220	1520	2.12
18	1.034	1334	1.80
19	1.220	1520	2.12
20	1.164	1464	2.03
21	1.000	1296	1.75
22	1.000	1296	1.75
23	1.000	1296	1.75
24	1.000	1296	1.75
25	1.034	1334	1.80
26	1.220	1520	2.12
27	1.034	1334	1.80
28	1.164	1464	2.03
29	1.034	1334	1.80
30	1.228	1528	2.14
31	1.220	1520	2.12
32	1.034	1334	1.80
33	1.164	1464	2.03
34	1.034	1334	1.80
35	1.228	1528	2.14
36	1.220	1520	2.12
37	1.034	1334	1.80
38	1.164	1464	2.03
39	1.034	1334	1.80
40	1.228	1528	2.14
41	1.220	1520	2.12
42	1.034	1334	1.80
43	1.164	1464	2.03
44	1.034	1334	1.80
45	1.228	1528	2.14
46	1.220	1520	2.12
47	1.034	1334	1.80
48	1.164	1464	2.03
49	1.034	1334	1.80

Dwelling Unit	Base Value	Square Footage	Percentage Interest
50	1.228	1528	2.14
51	1.000	1280	1.75
52	1.220	1520	2.12
53	1.164	1464	2.03
54	1.000	1296	1.75
55	1.000	1296	1.75
56	1.000	1296	1.75
57	1.000	1296	1.75
58	1.034	1334	1.80
59	1.228	1528	2.14
	57.364	72,876	100.00

SUPPLEMENTAL DECLARATION OF
WATERBURY HORIZONTAL PROPERTY REGIME

This Supplemental Declaration, made this _____ day of _____, 19_____, by COLLEGE LIFE DEVELOPMENT CORPORATION, an Indiana corporation ("Declarant"), WITNESSETH:

WHEREAS, the following facts are true:

A. Declarant is the sole owner of the fee simple title to the following described real estate located in Marion County, Indiana, to wit:

(Here will be inserted the legal description of all or part of the Additional Tract.)

(hereinafter referred to as the "Real Estate" or "Phase II").

B. On the _____ day of _____, 19_____, Declarant executed a Declaration of Horizontal Property Ownership for Waterbury Horizontal Property Regime which was recorded in the office of the Recorder of Marion County, Indiana, on the _____ day of _____, 19_____, as Instrument Number _____. Attached to the Declaration is the Code of Bylaws of Waterbury Horizontal Property Regime. The Declaration and Code of Bylaws are hereinafter respectively referred to as the "Declaration" and the "Bylaws". The Declaration and Bylaws are incorporated herein by reference and all of the terms and definitions as described therein are hereby adopted and shall have the same meaning in this Supplemental Declaration.

C. The Real Estate is a part of the Additional Tract described in paragraph 16 of the Declaration. Paragraph 16 of the Declaration provides that all or part of the Additional Tract may be annexed to

Waterbury Horizontal Property Regime, incorporated into the Declaration and the filing of a Supplemental Declaration by Declarant.

D. The Real Estate constitutes Phase II of Waterbury and all conditions relating to the annexation of Phase II of the Additional Tract to Waterbury Horizontal Property Regime have been met, and Declarant, by execution of this Supplemental Declaration, hereby incorporates the Real Estate into the Waterbury Horizontal Property Regime.

NOW, THEREFORE, Declarant makes this Supplemental Declaration as follows:

1. Declaration. Declarant hereby expressly declares that Phase II and all appurtenant easements, Dwelling Units, Buildings, improvements and property of every kind and nature whatsoever, real, personal and mixed, located thereon is hereby annexed to and becomes a part of the Waterbury Horizontal Property Regime as if such had originally been included in the Declaration, and hereafter held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions and provisions of the Declaration, the Act, the Bylaws, and the rules and regulations as adopted by the Board of Managers, as each may be amended from time to time. The Real Estate shall hereafter and for all purposes be included in the definition of "Tract" as defined in paragraph 1(aa) of the Declaration.

2. Supplemental Floor Plans. The Supplemental Plans setting forth the layout, location, identification and dimensions of the Buildings and Dwelling Units constituting Phase II have been filed in the office of the Recorder of Marion County, Indiana, in Horizontal Property Plan File No. _____ as of _____,

19___, as Instrument Number _____. The Supplemental Plans include a survey of the real estate, buildings and improvements.

3. Description of Buildings. There are _____ ( ) Buildings containing _____ ( ) Dwelling Units in Phase II as shown on the Supplemental Plans. The Buildings are identified and referred to in the Supplemental Plans as Buildings _____. Waterbury Horizontal Property Regime now has _____ ( ) Buildings containing _____ ( ) Dwelling Units. The total Base Value of all the Dwelling Units in Phase II is _____. The total Base Value of all the Dwelling Units in the Phases previously a part of Waterbury is _____. Accordingly, the total Base Value of all the Dwelling Units in Waterbury upon the annexation of Phase II is _____. The Base Value of each Dwelling Unit in all Phases of Waterbury is set forth in Exhibit A attached hereto.

4. Percentage Interest. The Percentage Interest of each Dwelling Unit in Phase I is hereby reduced to the Percentage Interest set forth in Exhibit A of the Supplemental Declaration and the balance hereby reverts to the Declarant, its successors or assigns. Declarant hereby mortgages to the mortgagees of the Owners or each Dwelling Unit in Phase I, if any, and grants and conveys to the Owners of each Dwelling Unit in Phase I, an undivided interest in the Common Areas and Limited Areas of Phase II, corresponding to such Dwelling Unit's Percentage Interest as designated in Exhibit A of this Declaration.

The Percentage Interest of each Dwelling Unit in the Tract (as now defined) is set forth in Exhibit A hereto.

5. Acceptance and Ratification. The acceptance of a deed of conveyance or the act of occupancy of a Dwelling Unit shall constitute an agreement that the provisions of this Supplemental Declaration, the Declaration, the Act, the Bylaws and any rules and regulations adopted pursuant thereto, as each may be amended from time to time, are accepted and ratified by each Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Dwelling Unit or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof.

Executed the day and year first above written.

COLLEGE LIFE DEVELOPMENT CORPORATION

By:_____

ATTEST:

_____

STATE OF INDIANA)
) SS
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared _____ and _____ by me known, and by me known to be the _____ and _____, respectively, of College Life Development Corporation, who acknowledged the execution of the above and foregoing Supplemental Declaration of Waterbury Horizontal Property Regime for and on behalf of said Corporation.

Witness my hand and Notarial Seal this _____ day of _____, 19____.

_____
Notary Public

My Commission Expires:

_____

This instrument prepared by Jerry D. Harner, Attorney at Law.

EXHIBIT A

SCHEDULE OF PERCENTAGE INTEREST AND BASE VALUE
OF DWELLING UNITS IN PHASE I AND PHASE II
WATERBURY HORIZONTAL PROPERTY REGIME

Dwelling Unit	Phase I Base Value	Phase I Square Footage	Percentage Interest
8	1.000	1280	.78
9	1.220	1520	.94
10	1.164	1464	.92
11	1.000	1296	.79
12	1.000	1296	.79
13	1.000	1296	.79
14	1.000	1296	.79
15	1.034	1334	.80
16	1.228	1528	.97
17	1.220	1520	.94
18	1.034	1334	.80
19	1.220	1520	.94
20	1.164	1464	.92
21	1.000	1296	.79
22	1.000	1296	.79
23	1.000	1296	.79
24	1.000	1296	.79
25	1.034	1334	.80
26	1.220	1520	.94
27	1.034	1334	.80
28	1.164	1464	.92
29	1.034	1334	.80
30	1.228	1528	.97
31	1.220	1520	.94
32	1.034	1334	.80
33	1.164	1464	.92
34	1.034	1334	.80
35	1.228	1528	.97
36	1.220	1520	.94
37	1.034	1334	.80
38	1.164	1464	.92
39	1.034	1334	.80
40	1.228	1528	.97
41	1.220	1520	.94
42	1.034	1334	.80
43	1.164	1464	.92
44	1.034	1334	.80
45	1.228	1528	.97
46	1.220	1520	.94
47	1.034	1334	.80
48	1.164	1464	.92
49	1.034	1334	.80

Dwelling Unit	Base Value	Square Footage	Percentage Interest
50	1.228	1528	.97
51	1.000	1280	.78
52	1.220	1520	.94
53	1.164	1464	.92
54	1.000	1296	.79
55	1.000	1296	.79
56	1.000	1296	.79
57	1.000	1296	.79
58	1.034	1334	.80
59	1.228	1528	.97
	57.364	72,876	44.85

Phase II

Dwelling Unit	Base Value	Square Footage	Percentage Interest
60	1.000	1296	.79
61	1.000	1296	.79
62	1.034	1334	.80
63	1.000	1280	.78
64	1.164	1464	.92
65	1.228	1528	.97
66	1.220	1520	.94
67	1.000	1296	.79
68	1.000	1296	.79
69	1.000	1296	.79
70	1.000	1296	.79
71	1.034	1334	.80
72	1.000	1280	.78
73	1.164	1464	.92
74	1.228	1528	.97
75	1.220	1520	.94
76	1.000	1296	.79
77	1.000	1296	.79
78	1.034	1334	.80
79	1.000	1280	.78
80	1.164	1464	.92
81	1.228	1528	.97
82	1.000	1296	.79
83	1.000	1296	.79
84	1.034	1334	.80
85	1.000	1280	.78

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Dwelling Unit	Base Value	Square Footage	Percentage Interest
86	1.164	1464	.92
87	1.228	1528	.97
88	1.220	1520	.94
89	1.000	1296	.79
90	1.034	1334	.80
91	1.220	1520	.94
92	1.164	1464	.92
93	1.228	1528	.97
94	1.000	1296	.79
95	1.000	1296	.79
96	1.034	1334	.80
97	1.000	1280	.78
98	1.164	1464	.92
99	1.000	1296	.79
100	1.000	1296	.79
101	1.000	1296	.79
102	1.164	1464	.92
103	1.228	1528	.97
104	1.220	1520	.94
105	1.000	1296	.79
106	1.000	1296	.79
107	1.034	1334	.80
108	1.000	1280	.78
109	1.164	1464	.92
110	1.228	1528	.97
111	1.000	1296	.79
112	1.000	1296	.79
113	1.220	1520	.94
114	1.034	1334	.80
116	1.000	1296	.79
117	1.000	1296	.79
118	1.000	1296	.79
119	1.000	1296	.79
120	1.000	1280	.78
121	1.164	1464	.92
122	1.164	1464	.92
123	1.228	1528	.97
124	1.220	1520	.94
125	1.000	1296	.79
	70.276	89,536	55.15
TOTAL	127.640	162,412	100.00

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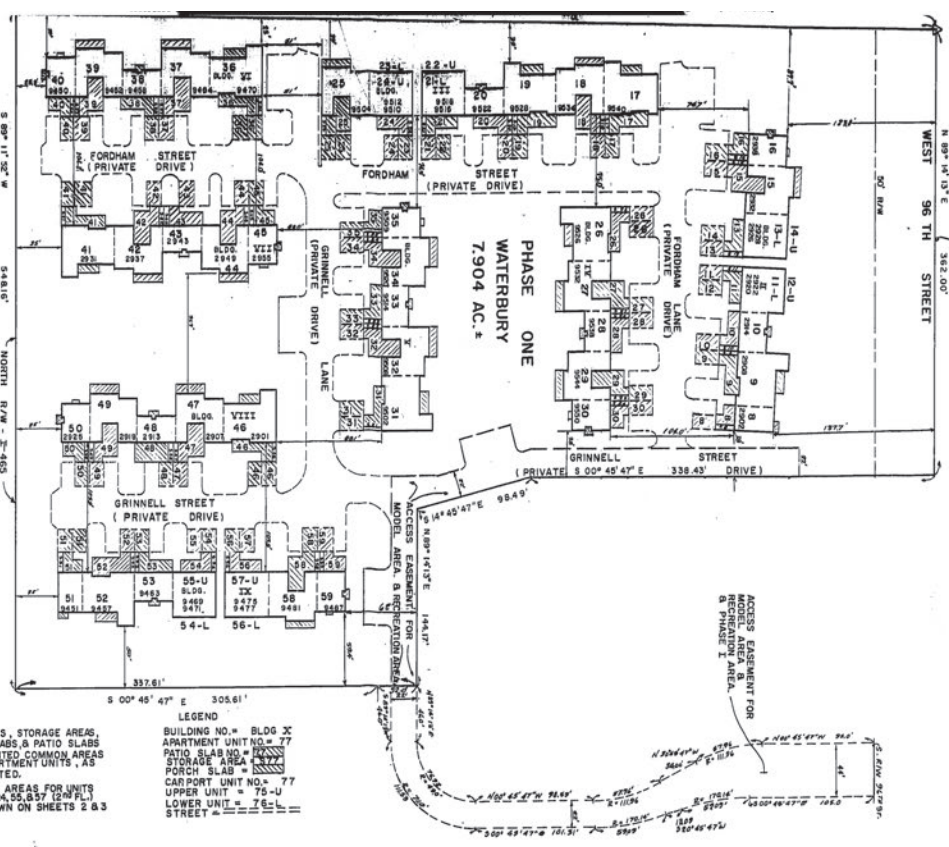
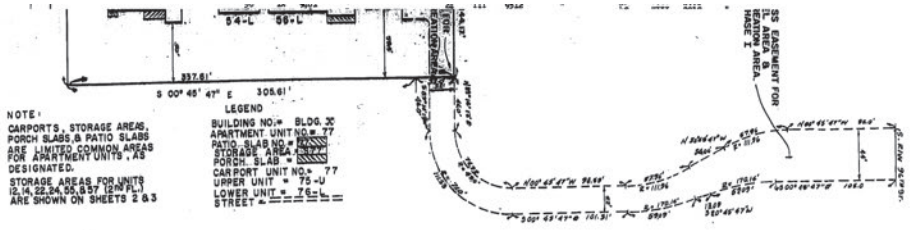
The Dwelling Unit, Building and Number, Base Value, Square Footage and Percentage Interests shown on this Schedule are assumed for illustrative purposes only, and are not intended to represent the Buildings and Dwelling Units, Base Values, Square Footage and Percentage Interests which, when and if constructed, will actually constitute Phase I and Phase II.



WATERBURY CONDOMINIUM - PHASE I
"HORIZONTAL PROPERTY REGIME"

I, the undersigned, do hereby certify that the accompanying plan to be true and correct, representing a plan of the proposed development known as Waterbury Condominiums, Phase I, the legal description for which is more particularly described as follows:

A part of the Northeast Quarter of Section 17, Township 17 North of Range 1 East in Marion County, Indiana, being more particularly described as follows:



WATERBURY CONDOMINIUM - PHASE I
"HORIZONTAL PROPERTY REGIME"

I, the undersigned, do hereby certify that the accompanying plan to be true and correct, representing a plan of the proposed development known as Waterbury Condominiums, Phase I, the legal description for which is more particularly described as follows:

A part of the Northeast Quarter of Section 17, Township 17 North of Range 3 East in Marion County, Indiana, being more particularly described as follows:

Beginning at the Northwest corner of the said Quarter Section, thence North 89 degrees 14 minutes 13 seconds East along the North line of said Quarter Section 362.00 feet; thence South 00 degrees 45 minutes 47 seconds East 338.43 feet; thence South 14 degrees 15 minutes 47 seconds East 98.49 feet; thence North 89 degrees 14 minutes 13 seconds East 144.17 feet; thence South 00 degrees 45 minutes 47 seconds East 337.61 feet to a point on the North right of way of Interstate 465 per Deed recorded as Instrument #66-40946 in the Office of the Recorder of said County; thence South 89 degrees 11 minutes 52 seconds West along said right of way 548.16 feet to a point on the West line of said Quarter Section; thence North 00 degrees 35 minutes 04 seconds East along said West line 772.20 feet to the Place of beginning, containing 7.904 acres, more or less.

Subject to right of way for 96th Street being 50.0 feet by parallel lines off the entire North side of tract.

I further certify the accompanying plan to be a true and correct representation of the total building layout, building, addresses, building numbers, home designations, parking areas and limited common areas and garages.

I further certify that Buildings II, III, IV, V, VI, VII, VIII and IX as shown hereon are as-built of the below certified date.

I further certify that there are no encroachments from subject tract onto adjoiners or from adjoiners onto subject tract other than sanitary and storm sewers and other underground utilities, and the private drives as shown on survey.

Certified this 5th day of June, 1974.

PAUL I. CRIPE, INC.

James E. Dankert
No. 4028
STATE OF INDIANA

Paul I. Cripe, Inc.
PRESIDENT

I, the undersigned, hereby certify that Sheets 1 thru 3 do fully and accurately depict garages, building layout, home layout dimensions, floor elevations for the Buildings II, III, IV, V, VI, VII, VIII and IX as shown hereon.

I further certify that Buildings II, III, IV, V, VI, VII, VIII and IX shown hereon are as-built as of the below certified date.

Certified this 5th day of June, 1974.

PAUL I. CRIPE, INC.

James E. Dankert
No. 4028
STATE OF INDIANA

Paul I. Cripe, Inc.
PRESIDENT

FILED
JUL 10 1974
Sharon A. Holmgreen
MARION COUNTY AUDITOR

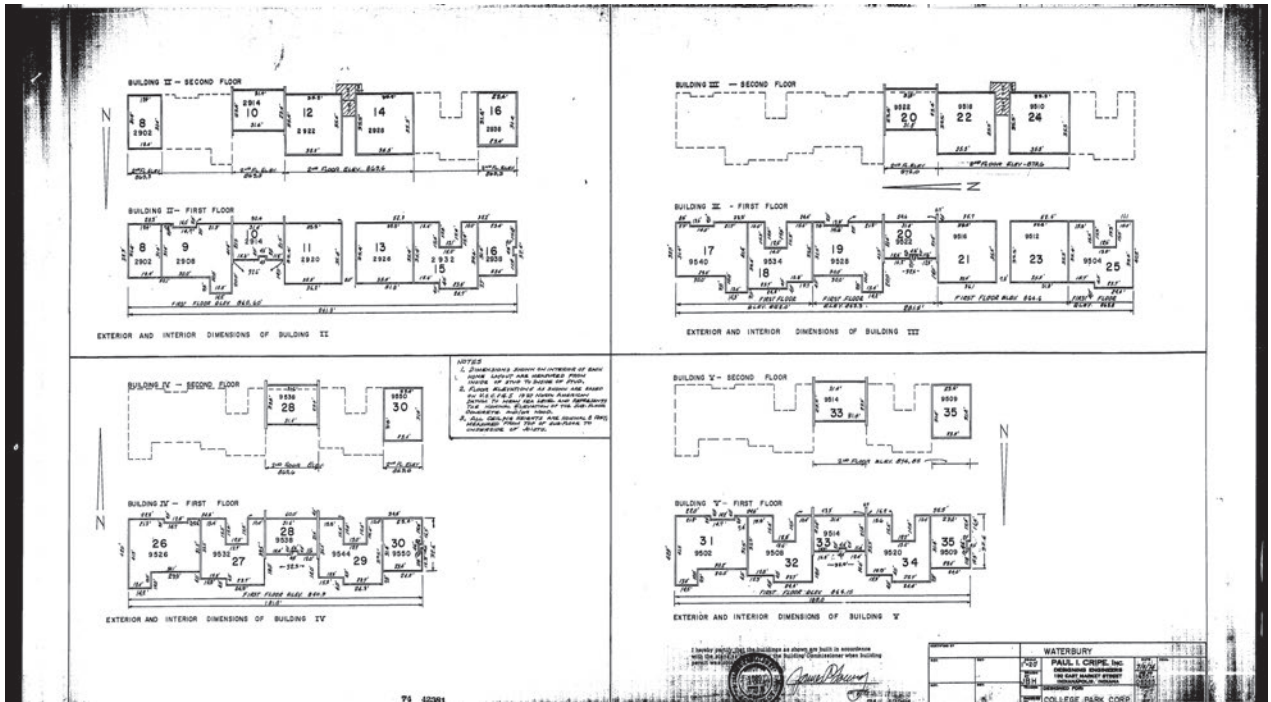
APPROVED THIS 10th
DAY OF July 19 74
AUDITOR OF MARION COUNTY
D.S. Hubbard
DEPUTY

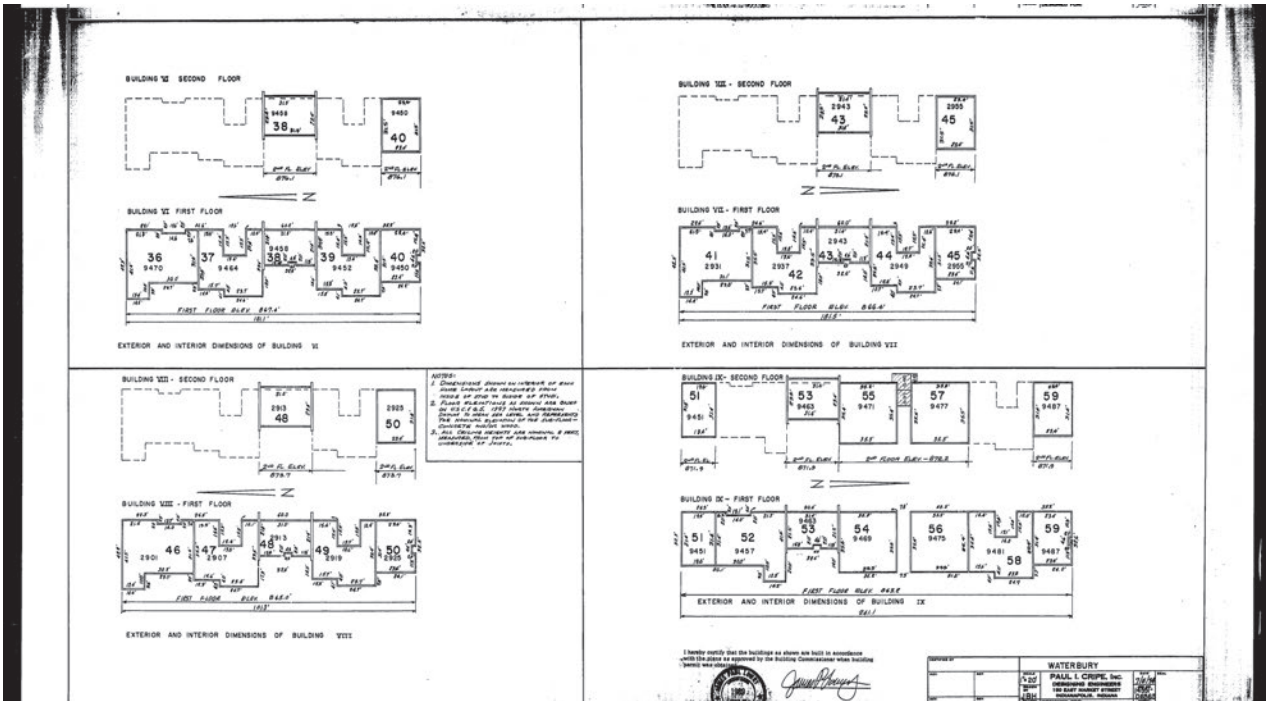
JUL 10 1974
Sharon A. Holmgreen
COUNTY AUDITOR

Address of Buildings

Unit #	Bldg.	Address
1	II	9601 Grinnell St.
2	II	9603 "
3	II	9605 "
4	II	9607 "
5	II	9609 "
6	II	9611 "
7	II	9613 "
8	II	9615 "
9	II	9617 "
10	III	9618 "
11	III	9616 "
12	III	9614 "
13	III	9612 "
14	III	9610 "
15	III	9608 "
16	III	9606 "
17	III	9604 "
18	III	9602 "
19	IV	9600 "
20	IV	9601 "
21	IV	9603 "
22	IV	9605 "
23	IV	9607 "
24	IV	9609 "
25	IV	9611 "
26	IV	9613 "
27	IV	9615 "
28	IV	9617 "
29	IV	9618 "
30	IV	9616 "
31	V	9614 "
32	V	9612 "
33	V	9610 "
34	V	9608 "
35	V	9606 "
36	V	9604 "
37	V	9602 "
38	VI	9600 "
39	VI	9601 "
40	VI	9603 "
41	VI	9605 "
42	VI	9607 "
43	VI	9609 "
44	VI	9611 "
45	VI	9613 "
46	VI	9615 "
47	VI	9617 "
48	VI	9618 "
49	VI	9616 "
50	VI	9614 "
51	VII	2931 Grinnell Lane
52	VII	2937 "
53	VII	2951 "
54	VII	2965 "
55	VII	2975 "
56	VIII	2901 "
57	VIII	2907 "
58	VIII	2921 "
59	VIII	2935 "
60	VIII	2945 "
61	IX	2930 "
62	IX	2944 "
63	IX	2958 "
64	IX	2972 "
65	IX	2986 "
66	IX	2987 "
67	IX	2973 "
68	IX	2959 "
69	IX	2945 "
70	IX	2931 "
71	II	9602 Fordham Lane
72	II	9604 "
73	II	9606 "
74	II	9608 "
75	II	9610 "
76	II	9612 "
77	II	9614 "
78	II	9616 "
79	II	9618 "
80	III	9617 "
81	III	9615 "
82	III	9613 "
83	III	9611 "
84	III	9609 "
85	III	9607 "
86	III	9605 "
87	III	9603 "
88	III	9601 "
89	III	9600 Fordham Street

WATERBURY
PAUL I. CRIPE, INC.
CONSULTING ENGINEERS
INDIANAPOLIS, INDIANA
PREPARED FOR:
COLLEGE PARK CORP.
SHEET 1 OF 3


BUILDING II – SECOND FLOOR
BUILDING II – FIRST FLOOR
EXTERIOR AND INTERIOR DIMENSIONS OF BUILDING II
BUILDING III – SECOND FLOOR
BUILDING III – FIRST FLOOR
EXTERIOR AND INTERIOR DIMENSIONS OF BUILDING III
BUILDING IV – SECOND FLOOR
BUILDING IV – FIRST FLOOR
EXTERIOR AND INTERIOR DIMENSIONS OF BUILDING IV
BUILDING V – SECOND FLOOR
BUILDING V – FIRST FLOOR
EXTERIOR AND INTERIOR DIMENSIONS OF BUILDING V
WATERBURY
PAUL I. CRIPE, Inc.
COLLEGE PARK CORP


BUILDING VI SECOND FLOOR
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BUILDING VI FIRST FLOOR
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EXTERIOR AND INTERIOR DIMENSIONS OF BUILDING VI
BUILDING VII - SECOND FLOOR
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BUILDING VII - FIRST FLOOR
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EXTERIOR AND INTERIOR DIMENSIONS OF BUILDING VII
BUILDING VIII - SECOND FLOOR
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BUILDING VIII - FIRST FLOOR
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EXTERIOR AND INTERIOR DIMENSIONS OF BUILDING VIII
BUILDING IX - SECOND FLOOR
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BUILDING IX - FIRST FLOOR
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EXTERIOR AND INTERIOR DIMENSIONS OF BUILDING IX
WATERBURY
PAUL I. CRIPE, Inc.

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CODE OF BYLAWS

OF

WATERBURY HORIZONTAL PROPERTY REGIME

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CODE OF BYLAWS

OF

WATERBURY HORIZONTAL PROPERTY REGIME

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CODE OF BYLAWS

OF

WATERBURY HORIZONTAL PROPERTY REGIME

ARTICLE I

Identification and Applicability

Section 1.01. Identification and Adoption. These Bylaws are adopted simultaneously with the execution of a certain Declaration creating Waterbury Horizontal Property Regime to which these Bylaws are attached and made a part thereof. The Declaration is incorporated herein by reference, and all of the covenants, rights, restrictions and liabilities therein contained shall apply to and govern the interpretation of these Bylaws. The definitions and terms as defined and used in the Declaration shall have the same meaning in these Bylaws and reference is specifically made to paragraph 1 of the Declaration containing definitions of terms. The provisions of these Bylaws shall apply to the Property and the administration and conduct of the affairs of the Association.

Section 1.02. Individual Application. All of the Co-owners, future Owners, Residents, tenants, future tenants, or their guests and invitees, or any other person who might use or occupy a Dwelling Unit or any part of the Property, shall be subject to the rules, restrictions, terms and conditions set forth in the Declaration, these Bylaws and the Act.

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ARTICLE II

Meetings of Association

Section 2.01. Purpose of Meetings. At least annually and at such other times as may be necessary, the meetings of the Co-owners shall be held for the purpose of electing the Board of Managers, approving the annual budget, providing for the collection of Common Expenses, and for such other purposes as may be required by the Declaration, these Bylaws, or the Act.

Section 2.02. Annual Meetings. The annual meeting of the members of the Association shall be held on the fourth Tuesday of January in each calendar year; provided, however, that the first annual meeting shall not be held until the fourth Tuesday of January, 1981, or such earlier date as may be determined by Declarant. At the annual meeting the Co-owners shall elect the Board of Managers of the Association in accordance with the provisions of these Bylaws and transact such other business as may properly come before the meeting.

Section 2.03. Special Meetings. A special meeting of the members of the Association may be called by resolution of the Board of Managers or upon a written petition of the Co-owners who have not less than a majority of the Percentage Vote. The resolution or petition shall be presented to the President or Secretary of the Association and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

Section 2.04. Notice and Place of Meeting. All meetings of the members of the Association shall be held at any suitable place in Marion County, Indiana, as may be designated by the Board of Managers. Written notice stating the date, time and place of any meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Association to each Co-owner and, if applicable, to any Mortgagee, not less than fourteen (14) days prior to the date of such meeting. The notice shall be mailed or delivered to the Co-owners at their address as it appears on the records of the Association and to the Mortgagees at their address as it appears on the records of the Association. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

Section 2.05. Voting.

(a) Number of Votes. To avoid fractional votes and to facilitate the orderly conduct of the meeting, each Owner shall be entitled to cast that number of votes on each matter coming before the meeting which is equal to the Percentage Vote to which the Owner is entitled, multiplied by one thousand (1,000). Thus, an Owner with a Percentage Interest or Percentage Vote of .44% would be entitled to cast 44 votes.

(b) Multiple Owner. Where the Owner of a Dwelling Unit constitutes more than one person, or is a partnership, there shall be only one voting representative entitled to all the Percentage Vote allocable to that Dwelling Unit.

At the time of acquisition of title to a Dwelling Unit by a multiple Owner or a partnership, those persons constituting such Owner or the partners shall file with the Secretary of the Association an irrevocable proxy appointing one of such persons or partners as the voting representative for such Dwelling Unit, which shall remain in effect until such appointed representative relinquishes such appointment in writing, becomes incompetent, dies or such appointment is otherwise rescinded by order of a court of competent jurisdiction. Such appointed voting representative may grant a proxy to another to vote in his place at a particular meeting or meetings pursuant to paragraph (d) of this Section 2.05, which shall not constitute a permanent relinquishment of his right to act as voting representative for the Dwelling Unit.

(c) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustee may cast the Percentage Vote on behalf of the trust and the agent or other representative of the corporation duly empowered by the board of directors of such corporation shall cast the Percentage Vote to which the corporation is entitled.

(d) Proxy. An Owner may vote either in person or by his duly authorized and designated attorney in fact. Where voting is by proxy, the Owner shall duly designate his attorney in fact in writing, delivered to the Association prior to the commencement of the meeting.

(e) Quorum. Except where otherwise expressly provided in the Declaration, these Bylaws or the Act, the Owners representing a majority of the Percentage Vote shall constitute a quorum at all meetings. The term majority of Owners or majority of Percentage Vote, as used in these Bylaws, shall mean the Owners entitled to not less than fifty one per cent (51%) of the Percentage Votes in accordance with the applicable percentage set forth in the Declaration, as such may be amended from time to time.

(f) Conduct of Annual Meeting. The Chairman of the meeting shall be the President of the Association. He shall call the meeting to order at the duly designated time and business will be conducted in the following order:

(1) Reading of Minutes. The Secretary shall read the minutes of the last annual meeting and the minutes of any special meeting held subsequent thereto.

(2) Treasurer's Report. The Treasurer shall report to the Co-owners concerning the financial condition of the Association and answer relevant questions of the Owners concerning the Common Expenses and the financial report for the prior year and the proposed budget for the current year.

(3) Budget. The proposed budget for the current calendar year shall be presented to the Co-owners for approval or amendment.

(4) Election of Board of Managers. Nominations for the Board of Managers may be made by any Owner from those persons eligible to serve. Such nominations must be in writing and presented to the Secretary of the Association at least ten (10) days prior to the date of the annual meeting. Voting for Board of Managers will be by paper ballot. The ballot shall contain the name of each person nominated to

serve as a Board member. Each Owner may cast the total number of votes to which he is entitled for as many nominees as are to be elected; however, he shall not be entitled to cumulate his votes. Those persons receiving the highest number of votes shall be elected. Each voting Owner shall sign his ballot.

(5) Other Business. Other business may be brought before the meeting only upon a written request submitted to the Secretary of the Association at least ten (10) days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed by a majority of the Percentage Vote.

(6) Adjournment.

ARTICLE III

Board of Managers

Section 3.01. The affairs of the Association and Waterbury shall be governed and managed by the Board of Managers (herein collectively called "Board" or "Managers" and individually called "Manager"). The Board of Managers shall be composed of three persons. No person shall be eligible to serve as a Manager unless he is an Owner or is appointed by Declarant.

Section 3.02. Initial Board of Managers. The initial Board of Managers shall be Jerry D. Harner, Philip C. Trasher and Lumir S. Palma, all of whom shall be appointed by the Declarant (the "Initial Managers"). Notwithstanding any other provision in these Bylaws or the Declaration, the initial Board shall hold office until the first annual meeting of the Co-owners which shall be held as provided in Section 2.02 and, in the event of a vacancy occurring in the Initial Board of Managers prior to the first annual meeting, such vacancy shall be filled by a person appointed by Declarant, who shall thereafter

be deemed an Initial Manager.

Section 3.03. Additional Qualifications. Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a partner or an officer or trustee shall be eligible to serve on the Board of Managers, except that no single Dwelling Unit may be represented on the Board of Managers by more than one person at a time.

Section 3.04. Term of Office and Vacancy. The Board of Managers shall be elected at each annual meeting of the Association. Managers shall hold office for a term of one (1) year or until their successors have been duly elected and qualified.

Any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining Managers or by vote of the Co-owners if a Manager is removed in accordance with Section 3.05 of this Article III.

Section 3.05. Removal of Managers. A Manager or Managers, except the Initial Managers, may be removed with or without cause by vote of a majority of the Percentage Vote at a special meeting of the Co-owners duly called and constituted. In such case, his successor shall be elected at the same meeting from eligible Owners nominated at the meeting. A Manager so elected shall serve until the next annual meeting of the

Co-owners or until his successor is duly elected and qualified.

Section 3.06. Duties of the Board of Managers. The Board of Managers shall provide for the administration of the Waterbury Horizontal Property Regime, the maintenance, upkeep and replacement of the Common Areas and, where applicable, Limited Areas, and the collection and disbursement of the Common Expenses. They shall, on behalf of the Association, employ a reputable and recognized property management company (the "Managing Agent") upon such terms as the Board shall find, in its sole discretion, reasonable and customary. The Managing Agent shall assist the Board in carrying out its duties, which include but are not limited to:

(a) protection, surveillance and replacement of the Common Areas and Limited Areas;

(b) procuring of utilities used in connection with Waterbury, and snow removal from the Common Areas;

(c) landscaping, painting, decorating and furnishing of the Common Areas and, where applicable, Limited Areas, the exterior of the Buildings, garages and walls;

(d) surfacing, paving and maintaining private streets, driveways, parking areas and sidewalks;

(e) procuring for the benefit of the Owners fire and extended coverage insurance covering the Buildings and the Property to the full replacement value thereof and procuring public liability and property damage insurance and workmen's compensation insurance, if necessary, for the benefit of the Owners and the Association;

(f) assessment and collection from the Owners of the Owner's prorata share of the Common Expenses;

(g) preparation of an annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of annual meeting is mailed or delivered;

(h) preparing and delivering annually to the Co-owners a full accounting of all receipts and expenses incurred in the prior year; such accounting shall be delivered to each Owner simultaneously with delivery of the annual budget;

(i) keeping a current, accurate and detailed record of receipts and expenditures affecting the Property, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an Owner at any time during normal business hours.

Section 3.07. Powers of the Board of Managers. The Board of Managers shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These powers include, but are not limited to, the power:

(a) to purchase for the benefit of the Co-owners such equipment, materials, labor and services as may be necessary in the judgment of the Board of Managers;

(b) to employ legal counsel, architects, contractors, accountants and other as in the judgment of the Board of Managers may be necessary or desirable in connection with the business and affairs of Waterbury;

(c) to include the costs of all the above and foregoing as Common Expenses and to pay all of such costs therefrom;

(d) to open and maintain a bank account or accounts in the name of the Association;

(e) to adopt, revise, amend and alter from time to time reasonable rules and regulations with respect to use, occupancy, operation and enjoyment of the Property.

Section 3.08. Limitation on Board Action. The authority of the Board of Managers to enter into contracts shall be limited to contracts involving a total expenditure of less than $2,500.00 without obtaining the prior approval of a majority of Owners, except in the following cases:

(a) contracts for replacing or restoring portions of the Common Areas or Limited Areas damaged or destroyed by fire or other casualty where the cost thereof is payable out of insurance proceeds actually received;

(b) proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Co-owners at the annual meeting.

Limitations on the authority of the Board of Managers set forth in this Section 3.08 shall not be applicable to the Initial Managers.

Section 3.09. Compensation. No Manager shall receive any compensation for his services as such except to such extent as may be expressly authorized by a majority of the Owners. The Managing Agent shall be entitled to reasonable compensation for its services which cost shall be a Common Expense.

Section 3.10. Meetings. Regular meetings of the Board of Managers may be held at such time and place as shall be determined from time to time by a majority of Managers. The Secretary shall give notice of regular meetings of the Board to each Manager personally or by United States mail at least five (5) days prior to the date of such meeting.

Special meetings of the Board may be called by any member of the Board. The person calling such meeting shall

give written notice thereof to the Secretary who shall, either personally or by mail and at least three (3) days prior to the date of such special meeting, give notice to the Board members. The notice of the meeting shall contain a statement of the purpose for which the meeting is called. Such meeting shall be held at such place and at such time within Marion County, Indiana, as shall be designated in the notice.

Section 3.11. Waiver of Notice. Before any meeting of the Board, any Manager may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Manager at a meeting shall, as to such Manager, constitute a waiver of notice of the time, place and purpose thereof. If all Managers are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 3.12. Quorum. At all meetings of the Board a majority of the Managers shall constitute a quorum for the transaction of business and the votes of the majority of the Managers present at a meeting at which a quorum is present shall be the decision of the Board.

Section 3.13. Non-Liability of Managers. The Managers shall not be liable to the Co-owners for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Managers, except for their own individual willful misconduct, bad faith or gross negligence. The Co-owners shall indemnify and hold harmless each of the

Managers against any and all liability to any person, firm or corporation arising out of contracts made by the Board on behalf of Waterbury, unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or bylaws. It is intended that the Managers shall have no personal liability with respect to any contract made by them on behalf of Waterbury or the Association and that in all matters the Board is acting for and on behalf of the Co-owners and as their agent. The liability of any Owner arising out of any contract made by the Board or out of the aforesaid indemnity in favor of the Managers shall be limited to such percentage of the total liability or obligation thereunder as is equal to his Percentage Interest. Every contract made by the Board or the Managing Agent on behalf of Waterbury shall provide that the Board of Managers and the Managing Agent, as the case may be, are acting as agent for the Co-owners and shall have no personal liability thereunder, except in their capacity as Owners and then only to the extent of their Percentage Interest.

Section 3.14. Additional Indemnity of Managers. The Co-owners shall indemnify any person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he is or was a Manager of the Association, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding,

or in connection with any appeal therein, except as otherwise specifically provided herein in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such Manager is liable for gross negligence or misconduct in the performance of his duties. The Co-owners shall also reimburse to any such Manager the reasonable costs of settlement of or judgment rendered in any action, suit or proceeding, if it shall be found by a majority of the Co-owners that such Manager was not guilty of gross negligence or misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Manager, no Manager shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good faith, such Manager relied on the books and records of the Association or statements or advice made by or prepared by the Managing Agent of Waterbury or any officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the Association to render advice or service unless such Manager had actual knowledge of the falsity or incorrectness thereof; nor shall a Manager be deemed guilty of or liable for negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Managers.

Section 3.15. Bond. The Board of Managers may require the Managing Agent, Treasurer and such other officers as the Board deems necessary to provide a surety bond, indemnifying the

Association against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as may be provided by the Bylaws or the Board of Managers and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. The cost of such bonds shall be a Common Expense.

ARTICLE IV

Officers

Section 4.01. Officers of the Association. The principal officers of the Association shall be the President, Vice President, Secretary and Treasurer, all of whom shall be elected by the Board. The Managers may appoint an Assistant Treasurer and an Assistant Secretary and such other officers as, in their judgment, may be necessary. Any two or more offices may be held by the same person, except that the duties of the President and Secretary shall not be performed by the same person.

Section 4.02. Election of Officers. The officers of [redacted] ually by the Board at the [redacted] Upon an affirmative vote of a majority of all members of the Board, any officer may be removed either with or without cause and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 4.03. The President. The President shall be elected from among the Managers and shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board, shall have and discharge all the general powers and duties usually vested in the office of president or chief executive officer of an association or a stock corporation organized under the laws of Indiana, including but not limited to the power to appoint committees from among the Co-owners as he may deem necessary to assist in the affairs of the Association and to perform such other duties as the Board may from time to time prescribe.

Section 4.04. The Vice President. The Vice President shall be elected from among the Managers and shall perform all duties incumbent upon the President during the absence or disability of the President. The Vice President shall also perform such other duties as these Bylaws may prescribe or as shall, from time to time, be imposed upon him by the Board or by the President.

Section 4.05. The Secretary. The Secretary shall be elected from among the Managers. The Secretary shall attend all meetings of the Association and of the Board and shall keep or cause to be kept a true and complete record of the proceedings of such meetings, shall perform all other duties incident to the office of the Secretary, and such other duties as from time to time may be prescribed by the Board. The Secretary shall specifically see that all notices of the Association or the Board are duly given, mailed or delivered, in accordance with the provisions of these Bylaws.

Section 4.06. The Treasurer. The Board shall elect from among the Managers a Treasurer who shall maintain a correct and complete record of account showing accurately at all times the financial condition of the Association and such other duties incident to the office of Treasurer. He shall be the legal custodian of all monies, notes, securities and other valuables which may from time to time come in to possession of the Association. He shall immediately deposit all funds of the Association coming into his hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account in the name of the Association.

Section 4.07. Assistant Officers. The Board of Managers may, from time to time, designate and elect an Assistant Secretary and Assistant Treasurer who shall have such powers and duties as the officers whom they are elected to assist shall delegate to them and such other powers and duties as these Bylaws or the Board of Managers may prescribe.

ARTICLE V

Assessments

Section 5.01. Annual Accounting. Annually, after the close of each calendar year and prior to the date of the annual meeting of the Association, the Board shall cause to be prepared and furnished to each Owner a financial statement, which statement shall show all receipts and expenses received, incurred and paid during the preceding calendar year.

"In any year in which there is an excess of assessments received over amounts actually used for the purposes described in these By-Laws and in the Declaration such excess may, upon written consent of

all of the members, be applied against and reduce the subsequent year's assessment or be refunded to the members. The preceding sentence shall automatically be repealed upon the revocation of Rev. Rul. 74-17 promulgated by the Internal Revenue Service or upon a court of competent appellate jurisdiction declaring such Rev. Rul. invalid or upon amendment of the Internal Revenue Code or the Treasury Regulations thereunder obviating the requirement of a membership vote to apply such excess to the subsequent year's assessments or to refund same in order that such excess be excluded from gross income of the Association."

Section 5.02. Proposed Annual Budget. Annually, on or before the date of the annual meeting of the Association, the Board of Managers shall cause to be prepared a proposed annual budget for the ensuing calendar year estimating the total amount of the Common Expenses for the ensuing year and furnish a copy of such proposed budget to each Owner prior to the annual meeting. The annual budget shall be submitted to the Co-owners at the annual meeting of the Association for adoption and, if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the ensuing calendar year. At the annual meeting of the Co-owners, the budget may be approved in whole or in part or may be amended in whole or in part by a majority of the Percentage Vote; provided, however, that in no event shall the annual meeting of the Co-owners be adjourned until an annual budget is approved at such meeting, either the proposed annual budget or the proposed annual budget as amended. The failure or delay of the Board of Managers to prepare a budget and furnish a copy thereof to the Co-owners shall not constitute a waiver or release in any manner of such Owner's obligation to pay the Common Expenses as herein provided, whenever determined, and in the absence of an annual budget, the Owner shall continue to pay the then existing monthly assessment until such new annual budget and monthly assessment is established. The Board

shall have maximum flexibility in making assessments for capital improvement items. The Board may also make annual reviews of contemplated capital improvements and may assess capital contributions from the Unit Owners for such expenditures by including them in the proposed annual budget or by making special assessments under Section 5.05 hereof.

Section 5.03. Regular Assessments. The annual budget as adopted shall, based on the estimated cash requirement for the Common Expenses in the ensuing year as set forth in said budget, contain a proposed assessment against each Dwelling Unit based on the Percentage Interest of each Dwelling Unit. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against each respective Dwelling Unit (herein called the "Regular Assessment"). The Regular Assessment against each Dwelling Unit shall be paid in equal monthly installments, commencing on the first day of February of such calendar year and on the first day of each calendar month thereafter through and including the following January 1. Payment of the monthly installments of the Regular Assessment shall be made to the Board of Managers or the Managing Agent or such other person or firm as directed by the Board of Managers. The Regular Assessment for the year shall become a lien on each separate Dwelling Unit as of February 1 of each calendar year.

Section 5.04. Interim Assessment. During the period that the Declarant is constructing Buildings and Dwelling Units to be annexed to Waterbury it is difficult to accurately allocate the Common Expenses to the individual Dwelling Units. The purpose of this Section is to provide for the maintenance and upkeep of Waterbury

and for the payment of the Common Expenses during the Interim Period as hereinafter defined. Accordingly, and notwithstanding any other provision contained in the Declaration or these Bylaws, prior to the first annual meeting of the Co-owners as provided in Section 2.02 hereof, there shall not be a Regular Assessment. However, Declarant has prepared an initial annual budget for the Common Expenses which is the basis upon which an assessment shall be made against each Dwelling Unit based upon the Percentage Interest appurtenant to such Dwelling Unit at the time such Dwelling Unit is conveyed by Declarant to an Owner rather than the Declarant. For ease of reference the period between the filing of the Declaration and the date upon which the Regular Assessments commence is referred to as the "Interim Period", and the assessments made against each Dwelling Unit for the Common Expenses during the Interim Period is referred to as the "Interim Assessment".

The term "Common Areas" and "Common Expenses" as used in this Section 5.04 shall be, during the Interim Period, deemed to include the Recreational Area and the expenses incurred in the maintenance, upkeep and repair thereof.

Payments of the Interim Assessments with respect to each Dwelling Unit shall commence on the date of conveyance by Declarant to such new Owner. The first payment shall be payable on the date of conveyance, prorated to the first day of the calendar month next ensuing. Thereafter, payment of the Interim Assessment shall be paid on the first day of each calendar month during the Interim Period. In the event Declarant leases a Dwelling Unit, an Interim Assessment with respect to such Dwelling Unit shall commence on the date such Dwelling Unit is occupied. The Interim Assessment and the lien therefor

shall be enforced and collected in the same manner as provided for the Regular Assessment.

Simultaneously with the recording of this Declaration the Initial Board of Managers shall enter into a contract with a Managing Agent. Pursuant to the terms of such contract the Managing Agent shall agree to perform the managerial services necessary to provide the maintenance, upkeep and replacements of the Common Areas and, where applicable, the Limited Areas of Waterbury. The Managing Agent shall be paid a fee which shall be a fixed amount for each Dwelling Unit obligated to pay the Interim Assessment. Such fee shall be a Common Expense. The term of the Managing Agent's contract shall expire on the last day of the calendar year in which the first annual meeting of the Co-owners occurs, as provided in Section 2.02. The Managing Agent may be a corporation related to the Declarant, either financially or otherwise.

The Initial Board of Managers shall collect the Interim Assessments and pay over such sums to the Managing Agent except for the amounts collected and noted in the Budget for replacement reserve, if any; provided, however, that the Initial Managers may provide that the Interim Assessment be paid directly to the Managing Agent who shall account for such receipts and disbursements as hereinafter provided. To the extent that the total of the Interim Assessments collected is not sufficient to pay all of the Common Expenses, the Declarant shall be obligated to pay such difference from time to time to the Managing Agent.

Within thirty (30) days after the end of each calendar year the Managing Agent and the Initial Managers shall provide each Owner with an accounting of the total amount of the Interim Assessments collected and the total amount of expenditures for the Common Expenses

paid for the preceding calendar year. At the same time the Initial Managers shall provide each Owner with an adjusted budget for the ensuing year and if, in the opinion of the Initial Managers, an increase in the Interim Assessment is necessary, each Owner shall be notified as to the change of the Interim Assessment with respect to his Dwelling Unit at such time; provided, however, that in no event shall the Interim Assessment for any year during the Interim Period be increased in an amount in excess of ten per cent (10%) of the previous year's Interim Assessment with respect to each Dwelling Unit. The amount of the total annual Interim Assessment with respect to each Dwelling Unit as so determined shall become a lien on each Dwelling Unit as of February 1 of each year during the Interim Period.

That portion of the Interim Assessment collected by the Initial Managers applicable to the replacement reserve, if any, shall be held by the Initial Managers and, if required, applied to the replacement of the Property. To the extent that such replacement reserve is not so applied, the balance thereof shall be paid over to the Association at the time that the Board of Managers is elected at the first annual meeting of the Co-owners.

In the event a Phase is annexed during any calendar year in the Interim Period, there shall be no change in the Interim Assessment against each Dwelling Unit already a part of Waterbury prior to the annexation of such Phase. However, the total annual budget for Waterbury for the year in which such annexation occurs shall be increased in the same

percentage that the total number of Dwelling Units in Waterbury have increased as a result of the annexation of such Phase, prorated for the balance of the year remaining. Such increased amount shall be assessed against and be paid by the Dwelling Units in the Phase annexed, and shall become a lien on such Dwelling Units upon filing of the Supplemental Declaration.

During the Interim Period the amount of the Interim Assessment may be increased in excess of the limitations thereon as provided in this Section 5.04 upon approval of Declarant and 75 per cent of the Percentage Votes of the Co-owners other than the Declarant.

Simultaneously with the conveyance of a Dwelling Unit by Declarant to a new Owner during the Interim Period, Declarant, such new Owner and the Association shall enter into an agreement specifically setting out the rights and obligations of the parties with respect to the maintenance and upkeep and payment of the Common Expenses of Waterbury during the Interim Period, which agreement shall be consistent with the provisions of this Section 5.04.

Section 5.05. Special Assessments. From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and without the approval of the Co-owners, unless otherwise provided in these Bylaws, the Declaration or the Act, the Board of Managers shall have the full right, power and authority to make special assessments which, upon resolution of the

Board, shall become a lien on each Dwelling Unit, prorated in accordance with the Percentage Interest of each Dwelling Unit (herein called "Special Assessment"); provided, however, no Special Assessment may be approved or made prior to December 31, 1980, without the unanimous approval of all Owners, including Declarant.

Section 5.06. Commencement of Regular Assessments. The first annual budget and the Regular Assessment to be charged against each Dwelling Unit pursuant thereto shall be determined by the Owners at the first annual meeting of the Association to be held as provided in Section 2.02. Except as otherwise provided in this paragraph, all Owners who own Dwelling Units in Waterbury at the time of the first annual meeting shall commence payment of their monthly amount of the Regular Assessment on the first day of February immediately following the first annual meeting. The Regular Assessment of the Owners of Dwelling Units in the Additional Tract or any Phase thereof that is annexed to Waterbury subsequent to the date of the first annual meeting pursuant to paragraph 16 of the Declaration shall commence payment of the Regular Assessment on the first day of the next month after sixty (60) days from the date of recording the Supplemental Declaration annexing such Phase or Phases. Subsequent to the filing of the Supplemental Declaration and prior to the date the assessment on the annexed Phase or Phases shall commence, the Board of Managers shall revise the budget to include the additional area and revise the monthly Regular Assessment

accordingly; provided, however, such revised monthly Regular Assessment shall not be any greater or increase the amount of the monthly Regular Assessment that an Owner is paying at the time of the revision of the budget without the approval of a majority of the Co-owners.

Section 5.07. Failure of Owner to Pay Assessments. Each Owner shall be personally liable for the payment of all Regular, Interim and Special Assessments. Where the Owner constitutes more than one person, the liability of such persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular, Interim or Special Assessment when due, the lien for such Assessment on the Owner's Dwelling Unit may be filed and foreclosed by the Board for and on behalf of the Association as provided by law or contract. Upon the failure of an Owner to make timely monthly payments of any Regular Assessment, Interim Assessment or Special Assessment, the Board may in its discretion, accelerate the entire balance of the unpaid Assessment due for the current calendar year and declare the same due and payable, notwithstanding the provisions of Sections 5.03, 5.04 and 5.05. In any action to foreclose the lien for Assessments, the Owner and occupant shall be jointly and severally liable for the payment to the Association of reasonable rental for such Dwelling Unit, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Dwelling Unit and to collect the rentals and other profits

therefrom for the benefit of the Association to be applied to the unpaid Regular, Interim or Special Assessment. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular, Interim or Special Assessment, without foreclosing or waiving the lien securing the same. In any action to recover a Regular, Interim or Special Assessment, whether by foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover costs and expenses of such action incurred, including but not limited to reasonable attorneys' fees, from the Owner of the respective Dwelling Unit.

Notwithstanding anything contained in this Section or elsewhere in the Declaration or these Bylaws, any sale or transfer of a Dwelling Unit pursuant to a mortgage foreclosure or conveyance in lieu thereof shall extinguish the lien of any unpaid installment of any Regular, Interim or Special Assessment as to such installments which became due prior to such sale or transfer; provided, however, that the extinguishment of such lien shall not relieve the prior Owner from his personal liability therefor. No such sale or transfer shall relieve the Dwelling Unit or the Purchaser at such foreclosure or Grantee in the event of conveyance in lieu thereof from the liability for any Regular, Special or Interim Assessment thereafter becoming due or from the lien therefor.

Section 5.08. Maintenance and Repairs. Every Owner shall promptly perform all maintenance and repair within his own Dwelling Unit, patio, balcony and garage area, which, if

neglected, would affect the value of the Property and is the responsibility of the Owner to make personally. Such maintenance and repairs include, but are not limited to, internal water lines, plumbing, electric lines, appliances, gas lines, telephones, heating and air conditioning equipment, doors, windows, lamps and all other accessories belonging to the Owner and appurtenant to the Dwelling Unit.

ARTICLE VI

Restrictions on Use

Section 6.01. The following restrictions on the use and enjoyment of the Dwelling Unit, Common Areas, Limited Areas and the Property shall be applicable to Waterbury and in addition to those set forth in the Declaration. These are as follows:

(a) All Dwelling Units shall be used exclusively for residential purposes and the occupancy of a single family.

(b) No additional buildings shall be erected or located on the Tract other than the Buildings designated in the Declaration and shown on the Plans.

(c) Nothing shall be done or kept in any Dwelling Unit or in the Common Areas or Limited Areas which will cause an increase in the rate of insurance on any Building or the contents thereof. No Owner shall permit anything to be done or kept in his Dwelling Unit or in the Common Areas or Limited Areas which will result in a cancellation of insurance on any Building or contents thereof, or which would be in violation of any law or ordinance.

(d) No nuisance shall be permitted and no waste shall be committed in the Dwelling Unit, Common Areas or Limited Areas.

(e) No Owner shall cause or permit anything to be hung or displayed on the outside of the windows or balconies or placed on the outside walls of the Building, and no sign, awning, canopy, shutter or radio or television antenna or other attachment or thing shall be affixed to or placed upon the exterior walls or roof or any other parts of any Building without the prior consent of the Board.

(f) No animals, livestock or poultry or any kind shall be raised, bred or kept in any Dwelling Unit or in the Common Areas or Limited Areas except that small dogs, cats or customary household pets may be kept in a Dwelling Unit; provided that such pet is not kept, bred or maintained for any commercial purpose, and does not create a nuisance. An Owner shall be fully liable for any damage to the Common Areas or Limited Areas caused by his pet. The Board may adopt such other rules and regulations regarding pets as it may deem necessary from time to time. Any pet which, in the judgement of the Board, is causing or creating a nuisance or unreasonable disturbance or noise, shall be permanently removed from the Property upon three (3) days' written notice from the Board to the respective Owner.

(g) Nothing shall be done or permitted in any Dwelling Unit which will impair the structural integrity of any Building or which would structurally change any Building, except as otherwise provided in the Declaration of these Bylaws.

(h) No clothes, sheets, blankets, rugs, laundry or other things shall be hung out or exposed on any part of the Common Areas or Limited Areas. The Common Areas and Limited Areas shall be kept free and clear of rubbish, debris and other unsightly materials.

(i) No industry, trade, or any commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Property.

(j) No "for sale", "for rent" or "for lease" signs or other window or advertising display shall be maintained or permitted on any part of the Property or any Dwelling Unit without the prior consent of the Board; provided, however, Declarant expressly reserves the right to erect, service and maintain signs in the Common

Areas as it deems reasonable and necessary to sell or lease the Dwelling Units or other Living Units on the Additional Tract.

(k) All Owners and members of their families, their guests, or invitees, and all occupants of any Dwelling Unit or other persons entitled to use the same and to use and enjoy the Common Areas and Limited Areas or any part thereof, shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of the Common Areas and Limited Areas.

(l) No boats, campers, trailers of any kind, buses, mobile homes, trucks or any other unconventional vehicles of any description, shall be permitted, parked or stored anywhere within the Property, except in areas specially designated therefor by the Board of Managers or completely enclosed within a garage area.

(m) No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Areas or Limited Areas, except with express permission from the Board.

(n) No Owner shall be allowed to place or cause to be placed in the lobbies, vestibules, stairways, hallways or areas of a similar nature and used for a similar purpose, both Common and Limited, any furniture, packages or objects of any kind, without the consent of the Board of Managers.

Section 6.02. Right of Entry. An Owner or Resident of a Dwelling Unit shall grant the right of entry to the Managing Agent or any other person authorized by the Board in case of any emergency originating in or threatening his Dwelling Unit or the Building in which it is located, whether the Owner is present at the time or not. Any Owner shall permit other persons, or their representatives when so required, to enter his Dwelling Unit for the purpose of performing installations, alterations or repairs to the mechanical or electrical services, or to make structural repairs, provided that requests for entry are made in advance and that such entry is at a

time convenient to the Owner. In case of emergencies, such right of entry shall be immediate.

Section 6.03. Right of Board to Adopt Rules and Regulations. The Board may promulgate such additional rules and regulations regarding the operation of the Property, including but not limited to the use of the Common Areas and Limited Areas, as it may deem necessary from time to time and such rules as are adopted may be amended by a vote of a majority of the Board, and the Board shall cause copies of such rules to be delivered or mailed promptly to all Owners.

ARTICLE VII

Amendment to Bylaws

Section 7.01. These Bylaws may be amended by a vote of not less than seventy five per cent (75%) of the Percentage Vote of the Co-owners in a duly constituted meeting called for such purpose; provided, however, that there shall be no amendment of these Bylaws prior to December 31, 1980, without the approval of Declarant.

ARTICLE VIII

Mortgages

Section 8.01. Notice to Association. Any Owner who places a first mortgage lien upon his Dwelling Unit or the Mortgagee shall notify the Secretary of the Association and provide the name and address of the Mortgagee. A record of such Mortgagee and name and address shall be maintained by

the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of the Declaration or these Bylaws shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee as may be otherwise required by the Declaration or these Bylaws shall be required and no Mortgagee shall be entitled to vote on any matter to which he otherwise may be entitled by virtue of the Declaration or Bylaws or proxy granted to such Mortgagee in connection with the mortgage.

Section 8.02. Notice of Unpaid Assessments. The Association shall, upon request of a proposed Mortgagee or purchaser who has a contractual right to purchase a Dwelling Unit, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Regular, Interim or Special Assessment against the Dwelling Unit, which statement shall be binding upon the Association and the Co-owners, and any Mortgagee or grantee of the Dwelling Unit shall not be liable for nor shall the Dwelling Unit conveyed be subject to a lien for any unpaid assessments in excess of the amount set forth in such statement.

In the event any Interim, Regular or Special Assessment is unpaid for a period of sixty (60) days after its due date, the Association shall give written notice to the Mortgagee of such Dwelling Unit that such assessment is delinquent.

Section 8.03. Escrow Accounts. No Mortgagee shall require that Owner pay to the Mortgagee sums to be held by the Mortgagee in escrow for the purpose of maintaining fire and extended coverage insurance on the Dwelling Unit covered by the lien of the Mortgagor, it being expressly understood that such amounts are part of the Common Expense and will be collected by the Association as otherwise provided in the Declaration and these Bylaws.