

Chautauqua County Clerk
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EDGEWATER CONDOMINIUM

EDGEWATER CONDOMINIUM

Index DEED BOOK

Book 02396 Page 0547

No. Pages 0042

Instrument AMENDED DECLAR

Date : 9/15/1998

Time : 3:35:45

Control # 199809150199

INST# DE 1998 005176

Employee ID TRAVIS

MORTGAGE TAX

COUNTY	\$	131.75	AMOUNT	\$	.00
	\$	.00			
ST ED DEPT	\$	4.75		\$	.00
	\$	.00			
	\$	.00		\$	.00
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	\$	.00		\$	.00
	\$	.00			
	\$	.00		\$	.00
	\$	.00			
Total:	\$	136.50	Total	\$	.00

STATE OF NEW YORK
Chautauqua County Clerk

TRANSFER TAX

WARNING - THIS SHEET CONSTITUTES THE CLERKS
ENDORSEMENT, REQUIRED BY SECTION 316-a(5) &
SECTION 319 OF THE REAL PROPERTY LAW OF THE
STATE OF NEW YORK. DO NOT DETACH

AMOUNT	\$	.00
Transfer Tax	\$	.00

Sandra K. Sopak
County Clerk



D023960547

AMENDED
DECLARATION
OF
EDGEWATER
CONDOMINIUM

1911 Edgewater Drive
Westfield, County of Chautauqua
New York 14787

1918
155

As amended September 15, 1998



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AMENDED DECLARATION OF EDGEWATER CONDOMINIUMS

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AMENDED
DECLARATION OF THE
EDGEWATER CONDOMINIUM
(Pursuant to Article 9-B of the Real Property Law)

THIS AMENDED DECLARATION is made this July 27, 1988 by EDGEWATER CONDOMINIUM, having its principal office at 1911 Edgewater Drive, Westfield, County of Chautauqua, New York, hereinafter call the Declarant;

WITNESSETH:

WHEREAS, a Condominium is a method of ownership which, when applied to multi-unit buildings, provides for a separate title to each unit and an undivided interest in and to all of the property that remains; and

WHEREAS, the said Condominium Act requires that the rights, privileges and obligations of the Declarant, unit owners, Board of Managers, mortgagees and others interested therein, be explicitly set forth;

NOW, THEREFORE, the Declarant, pursuant to the Condominium Act, does hereby declare and state on behalf of itself, its successors and assigns, and on behalf of all persons having or seeking to acquire any interest of any nature whatsoever in the said condominium property, as follows:

ARTICLE I
INTENTION

The Declarant states that it is the owner in fee simple of and hereby submits the property hereinafter described to the provisions of the Condominium Act.

ARTICLE II
EFFECTIVE DATE OF THE CONDOMINIUM

The effective date of the Condominium is the date when this Declaration is recorded and the other Condominium documents filed in the office of the Clerk of the County of Chautauqua. From and after the date of the recording of this Declaration, the property hereinabove described shall be and shall continue to be subject to each and all the terms hereof until this Declaration and this Condominium is terminated or abandoned in accordance with the provisions of the Condominium Act and of this Declaration.

ARTICLE III
DESCRIPTION OF PROPERTY

ALL THAT TRACT OR PARCEL OF LAND, situate in Lot 5; Town of Westfield, Chautauqua county, State of New York bounded and described as follows, to wit: BEGINNING at a point on the centerline of State Highway #9030, also known as the Lake Road (as a 66' right-of-way), said point being at the intersection of said centerline with the west line of Lot 5; thence, along said lot line, N. 0° 22' 30" E., passing over iron pin at 40.00 feet, 221.45 feet, 792.93 feet and 1444.46 feet, a total distance of 1518 feet, more or less, to waters of Lake Erie; thence, along said line, as it winds and turns, to the northeast corner of land as conveyed to Joseph J. Neratko et ux by Land Contract recorded in Chautauqua County in Liber 1349 at Page 141; thence along the east line of the same, 16° 21' 58" E., passing over iron pins at 22.12 feet, 678.00 feet and 1319.62 feet, a total distance of 1353 feet, more or less, to a point on the centerline of the Lake Road; thence, along said centerline, S. 54° 39' 34" W., 844.69 feet to the place of beginning.

Containing 17.7 acres of land, more or less, and being the same as premises as conveyed to Joseph J. Neratko et ux by Land Contract recorded in Chautauqua County in Liber 1349 at Page 141; find a Deed recorded in Liber 1558 at Page 89;

AND ALSO ALL THAT TRACT OR PARCEL OF LAND, situate in Lot 4, Town 4, Range 14 of the Holland Land Company's Survey, Town of Westfield, Chautauqua County, State of New York, bounded and described as follows, it wit: BEGINNING at a point on the centerline of State Highway 9030, also known as Lake Road (as a 66' right-of-way), said point being at the intersection of said centerline with the east line of Lot 4; thence, along the centerline of Lake Road, S. 54° 39' 34" W., 1098.29 feet to a point; thence, S. 54° 43' W. 64.16 feet to a point; thence, N. 0° 11' 20" east., passing over iron survey point at 40.52 feet, a total distance of 1154.95 feet to an iron survey point; thence, S. 87° 14' 18" W., 512.64 feet to an old iron pin near the top of the high bank of Lake Erie; thence, N. 0° , 00', 65 feet, more or less, to the waters of Lake Erie; thence along said water line, as it winds and turns, to the northeast corner of lands conveyed to Joseph Neratko, by Raymond Damon by deed recorded in Chautauqua County Clerk's Office in Liber 1105 at Page 216; thence, along the east line of the same, S. 0° 22' 30" W., passing over an iron survey point at 105.54 feet and iron pipes at 757.07 feet, 1338.55 feet and 1510.00 feet, a total distance of 1550 feet to the place of beginning.

Containing 32.4 acres of land, more or less, and being a portion of the same premises as conveyed to Joseph Neratko by deed recorded in Chautauqua County in Liber 1105 at Page 216.

Subject to covenants, easements and restrictions of record, if any.

ARTICLE IV DEFINITION AND TERMS

The following terms when used in this Declaration and in the other instruments constituting the Condominium documents are intended to be consistent with the meanings ascribed to them by the Condominium Act and are defined herein as follows:

- 1 "Apartment unit" means a unit which may be used for a residence only.
- 2 "Assessment" means that portion of the cost of maintaining, repairing and managing the property which is to be paid by each unit owner as determined by the Board of Managers.
- 3 "Board of Managers" means the group of persons elected, authorized and directed to manage and operate the Condominium as provided by the Condominium Act, this Declaration and the By-laws.
- 4 **"Building or buildings" means the eleven multi-unit residential structures, Lakeview Lounge, Recreation building, storage/maintenance structure and the office complex.**
- 5 "Common charges" means each unit's share of the common expenses in accordance with its common interest in relation to the entire project, as determined by the Board of Managers.
- 6 "Common elements" means all that part of the Condominium property other than a unit shown on the plans, Exhibit "A" (site plan), annexed hereto and as more particularly set forth in Article VIII.
- 7 "Common expenses" means and includes the actual and estimated expenses of operating the property and any reasonable reserve for such purposes as found and determined by the Board of Managers and all sums designated common expenses by or pursuant to the Condominium documents.
- 8 "Common interest" means the proportionate undivided interest in the fee simple absolute in the common elements appertaining to each unit as expressed in this Declaration.
- 9 "Common profits" means the excess of all receipts of the rents, profits and revenues from the common elements or other assets of the Condominium organization remaining after deduction of the common expenses and allowing for the retention of a reasonable reserve for future expenditures, all as fixed by the Board of Managers.

- 10 "Common surplus" means the excess of all receipts of the Condominium organization including but not limited to assessments, rents, profits and revenues on account of the common elements, over the amount of common expenses.
- 11 "Common documents" means and includes this Declaration as the same may be amended from time to time and the exhibits annexed hereto and identified as follows:
- EXHIBIT A: Site Plan;
EXHIBIT B: Basic floor plans;
EXHIBIT C: By-laws of this Condominium.
- 12 "Condominium parcel" means a unit together with the undivided share in the common elements which is appurtenant to the unit.
- 13 "Condominium property" means and includes the land in the Condominium, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto for use in connection with the Condominium.
- 14 "Declarant" means Edgewater Condominium its successors and assigns, as the maker of this Declaration.
- 15 "Declaration" means the instrument by which the property was submitted to the provisions of the Condominium Act and such instruments as from time to time amend the same in accordance with said Act and the By-laws of this Condominium.
- 16 "Family" as used in this Declaration and in the By-laws and Rules and Regulations means the immediate family of the unit owner.
- 17 "Majority" of unit owners and specified percentages of unit owners is the "majority" as set forth in the By-laws or in this Declaration for each particular determination, pursuant to Section 339-e, subparagraph 8, of the Condominium Act.
- 18 "Operation of the property" means and includes the administration of the project, the operation, maintenance, repairs or replacement of and the making of any additions or improvements in the common elements.
- 19 "Person" means a natural person, a corporation, partnership, the Condominium Organization herein referred to, trustee or other legal entity.
- 20 "Plans and specifications" means the plans and specifications prepared by William Jehle and David Daigler, Licensed Professional Engineers, set forth in Article V.
- 21 "Property" or "Premises" means and includes the land, the buildings and all other improvements thereon as set forth in this Declaration and the easement rights and appurtenances thereunto belonging, and all other property, real, personal or mixed intended for use in connection with this Condominium.
- 22 "Recording Officer" means the Clerk of the County of Chautauqua and "recording" or "recorded" means the filing for that purpose with the said Clerk of the County of Chautauqua and the payment of the proper fees therefore.
- 23 "Share" means the percentages in and to the common elements attributed to each unit.
- 24 "Site and floor plans" means the site and floor plans of the buildings and showing the layout, location, approximate dimensions of the unit, the unit designations as presented in Exhibits A and B.

- 25 "Unit" means one of the parcels of property intended for use as a private residence which is privately owned and has a unit designation.
- 26 "Unit designation" means the number, letter or combination thereof or other official designations conforming to the tax lot number, if any,
- 27 "Unit owners" means the person or persons owning a residential unit in fee simple.

ARTICLE V BUILDINGS AND FACILITIES ERECTED

The buildings and facilities constructed include: eleven (11) residential buildings housing one hundred four (104) dwelling units in three basic configurations, each with a private entrance; a recreation building; a two story lounge; two (2) laundry facilities; an administration building with upstairs apartment; an equipment garage with attached storage facilities; a swimming and tennis complex; waste water treatment facility; and various other minor structures. All parking spaces are considered common areas for the use of all unit owners and will not be assigned as part of any one unit.

The Plans and Specifications, setting forth the details of the above buildings were prepared by William Jehle, residing at Williamsville, New York, and David Daigler, residing at Swormville, New York, licensed Professional Engineers, and are on file in the office of the Clerk of the Town of Westfield, New York and in the office of the Declarant.

ARTICLE VI UNIT DESIGNATIONS AND DESCRIPTION

The unit designation of each residential unit, its location, dimensions, approximate area, number of rooms and common elements to which it has immediate access, and other data concerning proper identification, are as set forth in the site and floor plans marked Exhibit "A" and "B" and attached hereto and made a part hereof. Each unit is a separate freehold estate. Each such unit is subject to such encroachments as are contained in the building, whether the same now exist or may be caused or created by construction, settlement or movement of the buildings, or by permissible repairs, construction or alteration.

The unit description, horizontally, consists of the area measured horizontally from the center of the exterior walls of the building to the center of the opposite exterior walls of the building, or the center of the partition that separates such unit from other units, as the case may be.

The unit description, vertically, for the second story units, consist of the area measured vertically from the center of the floor to the center of the ceiling; for one-story ground level units the area is measured from surface of concrete floor slab to the center of the ceiling.

Each unit includes electrical and plumbing outlets within the unit, all windows, screens, and the entrance door and its hardware, but not the exterior finish of said door.

Each unit does not include the structural members of the building or pipes, ducts, wires, conduits, improvements and other facilities running through any wall, partition, floor or ceiling.

Every conveyance or lien using the unit designation assigned to it shall be deemed to include its proportionate undivided interest in the common elements without requiring specific reference thereto.

**ARTICLE VII
CHARACTER AND USE**

Each of the one hundred four (104) units is intended to be used as a private residence and shall be occupied on an overnight basis by no more than eight people in a two bedroom unit or six people in a one bedroom unit or a studio unit. These numbers to include children and infants.

The common elements shall be used for the benefit of the unit owners.

**ARTICLE VIII
DESCRIPTION OF COMMON ELEMENTS**

Each unit shall include an undivided interest in the common elements (defined in Article IV as the "Condominium Parcel").

The common elements consist of all parts of the condominium property other than the unit and are defined as follows:

The common elements for each unit owner shall include, without limitation, the multi-family buildings (except for the unit), the airspace above the said buildings, the foundations, and structural members, including bearing walls, columns, girders, beams and supports, roofs, balconies, garage, storage spaces, parking spaces, central motors, pumps, tanks, equipment, apparatus, and all other central and appurtenant installations, including all pipes, ducts, shoots, conduits, wires, and cables used in connection therewith, (except the outlets thereof when located within the units), required to provide power, light, telephone, television, gas, water, heat services to or in the Condominium buildings, and shall also include the land described in Article III, which shall include the land upon which each multi-family building is located, lawns, trees, shrubs, and all landscaping, pavements, recreation areas, private drives (as shown in Exhibit "A") and all other community facilities, however it shall not include dedicated streets, or any air conditioning equipment.

The common elements shall include easements for access, maintenance, repair, reconstruction or replacement of the foregoing structural members, equipment, installations and appurtenances and for all other services necessary or convenient to the existence, maintenance, safety and use of the property.

Portions of the common elements are hereby set aside and allocated for the restricted use of the respective units and shall be known as "Restricted Common Elements".

The restricted common elements shall include all lakeside balconies and patios attached to the units.

Restricted common elements shall be for the restricted use and enjoyment of the respective owners of the unit or units having direct access to them.

The proportionate percentage of undivided interest in the common elements (defined in Article IV as the "Share") hereby established and which shall be conveyed with each respective unit is set forth in Article IX.

ARTICLE IX
NATURE OF COMMON ELEMENTS
AND COMMON INTEREST

Section 1. Each unit has appurtenant to it a common proportionate undivided interest in the common elements (share). The amount of the percentage proportion or share appurtenant to each unit in the common elements is in equal percentages within separate classifications of units. There are two classifications of units: one bedroom and two bedroom. The fraction will have a numerator of one (1) for each one bedroom, and one and one-half (1.5) for each two bedroom, and a denominator equal to the total separate units actually included, annexed and/or developed in the property. The fractions for the 104 units constructed are 36/138 for the 36 one bedroom units and 102/138 for the 68 two bedroom units.

Section 2. The common interest appurtenant to each unit is declared to be permanent in character and cannot be altered without the consent of all unit owners affected, as expressed in an amended Declaration.

Section 3. The common elements shall not be divided, nor shall any right to partition any thereof exist, but nothing herein contained shall be deemed to prevent ownership of a unit as tenants by the entirety, joint tenants or tenants in common.

Section 4. Each unit owner may use the common elements in accordance with purposes for which they are intended without hindering the exercise of, or encroaching upon, the rights of other unit owners. This section shall be deemed to prevent some unit owners from enjoying substantially exclusive rights or advantages in a part or parts of the common elements (except for restricted common elements) by reason of their ownership of a particular unit or units.

Section 5. The unit owners shall have the irrevocable right, exercised by the Board of Managers its designee, to enter any unit at any time during an emergency, or during reasonable hours and upon reasonable notice for the following purposes;

- (a) to inspect, repair and/or improve the common elements.
- (b) To inspect or repair and/or improve the unit or adjoining units when responsibility therefore rests with the Board of Managers.
- (c) To prevent damage to the common elements or to any unit
- (d) To abate any violation of law, order, rules or regulations of the condominium or any governmental authority having jurisdiction thereof.
- (e) To correct any condition which violates the provisions of any mortgage covering another unit.

Section 6. The Board of Managers shall, if any question arises, determine the purpose for which a common element is intended to be used. They shall have the right to promulgate rules and regulations limiting the use of the common elements to unit owners and their respective families, guests, invitees, and employees as well as to provide for the exclusive use by a unit owner and his guest, for special occasions, of the common elements. Such use may be conditioned, among other things, upon the payment by the unit owner seeking such use, of an assessment as may be established by the Board of Managers for the purpose of defraying the cost thereof.

Section 7. The maintenance, repair, replacement, management, operation and use of the common elements, as set forth in Article VIII, shall be the responsibility of the Board of Managers, but nothing herein contained shall be construed so as to preclude the Board from delegating these duties to a manager or agent or to other persons, firms or other corporations.

Section 8. The expenses incurred or to be incurred for the maintenance, repair, replacement, management, operation and use of the common elements shall be collected from the unit owners and assessed as common charges by the Board of Managers.

Section 9. (a) The Board of Managers shall have the right to make or cause to be made, such alterations and improvements to the common elements as in its opinion may be beneficial and necessary so long as they do not change the basic character, purpose, or use of the common elements, or those requested in writing by a unit owner or owners and the holders of first mortgages thereon. The Board may require the consent in writing before undertaking such work from such unit owners and the holders of first mortgages thereon, whose rights, in the sole opinion of the Board, may be prejudiced by such alterations or improvements.

(b) When, in the sole opinion of the Board, the alteration or improvement is general in character the costs therefore shall be assessed as common expenses.

(c) When, in the sole opinion of the Board, as evidenced by a vote of two-thirds thereof, the alteration or improvement is exclusively or substantially for the benefit of one or more unit owners that request it, the cost shall be assessed against such owner or owners in such proportion as the Board shall determine is fair and equitable. Nothing herein contained shall prevent the unit owners affected by such alteration or improvement from agreeing in writing, either before or after the assessment is made, to be assessed in different proportion.

Section 10. No unit owner shall do any work which would affect or alter any of the common elements or impair any easement or hereditament therein.

Section 11. While the property remains subject to this Declaration and the Condominium Act, no liens of any nature shall arise or be created against the common elements except with the consent in writing of 90% of the unit owners and the holders of first liens thereon, except such liens as may arise or be created against the several units and their respective common interests under Section 339-1 of the Condominium Act.

Every agreement for the performance of labor or the furnishing of materials to the common elements, whether oral or in writing, must provide that it is subject to the provisions of this Declaration, and the Condominium Act and the right to file a mechanic's lien by reason of labor performed or materials furnished is waived.

Section 12. All common charges received or to be received by the Board of Managers and the right to receive such funds shall constitute trust funds for the purpose of paying the cost of labor and materials furnished to the common elements at the expressed request or with the consent of the Board of Managers or their designee and the same shall be expended first for such purposes before expending any part of the same for any other purpose. Nothing herein contained shall require the Board of Managers to keep such charges in a separate bank account and no violation of said trust shall arise by reason of the commingling of the funds held by the Board of managers in one bank account.

Section 13. Every unit owner shall comply strictly with the By-laws, rules, regulations, resolutions and decisions adopted pursuant thereto in relation to the units or the common elements. Failure to comply with any of the same shall be grounds for an action to recover sums due, for damages, for injunctive relief or for any or all of them. Such action may be maintained by the Board of Managers on its own behalf or on behalf of the unit owners aggrieved. In any case of flagrant or repeated violation by a unit owner, he may be required by the Board of Managers to give sufficient surety or sureties for his future compliance with the By-laws, rules, regulations, resolutions and decisions. Nothing herein contained shall prevent, in a proper case, any independent action by an aggrieved unit owner for such relief.

ARTICLE X

UNITS: THEIR MAINTENANCE AND REPAIR

Section 1. No unit owner shall do or cause to be done any work affecting his unit which would jeopardize the soundness or safety of the property, reduce the value thereof, or impair any easement or hereditament therein. The unit owner shall cause any work being performed on the unit, which in the sole opinion of the Board of Managers violates this section, to be immediately stopped, and he shall refrain from recommencing or continuing the same without the consent in writing of the Board. He shall not repair, alter, replace or move any of the common elements which are located within his unit without the prior consent in writing of the Board. He shall not repair, alter, replace or perform work of any kind on the exterior of the building or excavate an additional basement or cellar without, in every such case, first obtaining in writing the consent of the Board of Managers. He shall not alter or replace any walls except those non-bearing partition walls which are wholly within his unit.

Section 2. It shall be the right and responsibility of the Board of Managers to maintain, repair or replace:

All portions of the unit which contribute to the support of the building, including main bearing walls, but excluding painting, wall papering, decorating or other work on the interior surfaces of walls, ceilings and floors within the unit.

- (a) All portions of the unit which constitute a part of the exterior of the buildings, including the exterior finish of any exterior door, but excluding the door themselves, their hardware or any air-conditioning components.
- (b) All common elements within the unit.
- (c) All incidental damage caused by work done by direction of the Board of Managers.
- (d) In the performance of any labor or in the furnishing of any material to a unit, under the direction of the Board of Managers, no lien shall be established or give rise to the basis for filing a mechanic's lien against the unit owner except such work performed for emergency repair. Nothing herein contained shall prevent such mechanic's lien being filed against a unit owner who expressly consents and requests in writing that the work be done.

Section 3. It shall be the responsibility of the unit owner:

- (a) To maintain, repair or replace at his own expense the heating unit and air-conditioning unit (if any) and all other items specific to the unit including all hot water system components, windows and window glass and screens, storm doors and door glass, exterior doors and associated hardware, and any other portions of the unit which may cause injury or damage to the other units or to the common elements except the portions thereof mentioned and described in Section 2 hereof.
- (b) To paint, wallpaper, decorate and maintain the interior surfaces of all walls, ceilings and floors within the unit.
- (c) To perform his responsibilities in such a manner and at such reasonable hours so as not to disturb other unit owners residing in the building.
- (d) To refrain from repairing, altering, replacing, painting or otherwise decorating or changing the appearance of any portion of the common elements without first obtaining the consent in writing of the Board of Managers and to refrain from repairing, altering, replacing, painting decorating or changing any balcony, by the unit owner or otherwise, without obtaining the aforementioned consent.
- (e) To promptly report to the Board of Managers or their agent all work that he intends to perform for repair of any kind, the responsibility for the remedying of which lies with the Board of Managers. Any consent by the Board of Managers to the performance of such work by the unit owner shall not constitute an assumption by the Board of Managers to pay therefore. Also, the failure of the Board of managers to take action on such notice shall not be deemed a waiver by it of its rights and shall not constitute consent by the Board or an assumption by it to pay for any work performed by the unit owner. Any consent given by the Board of Managers may set forth the terms of such consent and the unit owner shall be required to abide thereby.

Section 4. Nothing in this article contained shall be construed so as to impose a personal liability upon any of the members of the Board of Managers for the maintenance, repair or replacement of any unit or common element or give rise to a cause of action against them. The Board of Managers, as such, shall not be liable for damages of any kind except for willful misconduct or bad faith.

ARTICLE XI

UNITS: HOW CONSTITUTED AND DESCRIBED

Section 1. Every unit, together with its undivided common interest in the common elements, shall for all purposes be, and it is hereby declared to be and to constitute a separate parcel of real property and the unit

owner thereof shall be entitled to the exclusive ownership and possession of this unit subject only to the covenants, restrictions, easements, By-laws, rules, regulations, resolutions and decisions adopted pursuant thereto as may be contained in the Condominium documents or as may from time to time be passed in accordance with this Declaration and the By-laws.

Section 2. A unit shall be described in the Deed by unit designation as shown on Exhibit "A" hereto annexed, and shall recite that it is part of the premises described in Article III of this declaration giving the liber and page and the date of recording this Declaration. It shall state the common interest appertaining thereto. It shall further recite that the conveyance is made together with the benefits, rights (including exclusive use rights for restricted common elements), and privileges stated in the Condominium documents and subject to all easements, covenants, restrictions, liens, charges, uses, By-laws, rules, regulations, and resolutions and decisions in accordance therewith as set forth in the Condominium documents.

Section 3. Every conveyance or lien using the unit designation assigned to it as shown on Exhibit "A" hereto annexed, shall be deemed to include its proportionate undivided interest in the common elements, and shall include, without requiring specific reference thereto or enumerating them, all the appurtenances and easements in favor of the unit, and similarly be subject to all easements in favor of others.

Section 4. Any transfer of a unit shall include all appurtenances thereto whether or not specifically described.

ARTICLE XII BOARD OF MANAGERS

Section 1. The Declarant does hereby declare that the affairs of the Condominium shall be governed and controlled under the By-laws by a Board of Managers. There shall not be less than five nor more than nine members of the Board of Managers. The Board of Managers may be enlarged in multiples of two. At the expiration of the initial term of office of each respective member of the Board of Managers his successor shall be elected to serve for a term of two (2) years, as provided in the By-laws.

Section 2. The Board of Managers shall have charge of and be responsible for and is authorized to manage the affairs of the condominium organization, the common elements and other assets held by it on behalf of the unit owners except as herein otherwise limited. It shall have all the powers, rights, duties and obligations wherever set forth in this Declaration or in the Condominium documents. It shall adopt and execute all measures and proceedings necessary to promote the interests of the Condominium. It shall hold all funds or other assets of the Condominium and administer them as trustees for the benefit of the unit owners. It shall keep accurate records and audit and collect bills. It shall contract for all loans, mortgages, leases and purchase or sale of units in the Condominium acquired by it or its designee on behalf of all of the unit owners, where applicable. It shall direct all expenditures, select, appoint, remove and establish the salaries of employees and fix the amount on bonds for officers and employees. It shall maintain the common elements and other portions of the buildings as herein specified, paying for services and supervising repairs and alterations. It shall pass upon the recommendations of all committees and adopt rules and regulations as in their judgment may be necessary for the management, control and orderly use of the common elements, and in general it shall manage the Condominium property as provided herein and in the By-laws, but nothing herein shall prevent the Board of Managers from employing, and delegating such powers as it deems advisable to, professional management.

Section 3. In order to limit the liability of the unit owners, the members of the Board of Managers, or its designee, any contract or other commitment made by the Board of Managers, or a designee in its behalf, shall state that it is made by the Board of Managers, its managing agent, manager or other designee as the case may be, only as agent for the unit owners, and that the members of the Board of Managers, its managing agent, manager or other designee, shall have no personal liability for any contract or commitment (except as unit owners), and that the liability of any unit owner on any such contract or commitment shall be limited to such proportionate share of the total liability as the common interest of each unit owner bears to the aggregate common interest of all unit owners. The Board shall have no liability to the unit owners for errors of judgement or otherwise, except for willful misconduct or bad faith. It is discretionary with the Board whether its members shall be bonded for this purpose.

Section 4. True copies of the floor plans, this Declaration, the By-laws, the rules and regulations, resolutions and decisions shall be kept on file in the office of the Board of Managers and shall be available for inspection at convenient hours of weekdays by persons having an interest therein.

Section 5. The Board of Managers, or a managing agent which it employs, as the case may be, shall keep detailed accurate records, in chronological order, of the receipts and disbursements arising from the operation of the property. It shall also keep an assessment roll as more fully set forth in Article XIII, Section 9, hereof. Such records and the vouchers authorizing the payment shall be available for examination by the unit owners at convenient hours of weekdays. A written report summarizing such receipts and disbursements shall be made available by the Board to all unit owners at least once annually.

ARTICLE XIII CHARGES, ASSESSMENTS AND PROFITS

Section 1. No unit owner may exempt himself from the liability for payment of his common charges and expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of his unit except as provided in Section 2 of this Article.

Section 2. Any unit owner may offer his unit to the Board of Managers. The Board at its option may accept or refuse such conveyance. After such Conveyance the unit owner shall be exempt from common charges thereafter accruing.

Section 3. The common expenses shall be charged by the Board of Managers to the unit owners, according to their respective common interest. The common profits of the property, after offsetting the common expenses and making due allowance for the retention of a reserve to cover future common expenses, shall be distributed among the unit owners in the same manner.

Section 4. Insurance shall be obtained upon the property and the cost thereof shall be borne and paid as common charges and as hereinafter more fully set forth in Article XVIII.

Section 5. Assessments against the unit owner shall be made and approved by the Board of Managers and shall be paid by the unit owners and each owner shall be liable for this share of the common charges, except as in this article provided.

Section 6. Assessments for common charges shall be made for the calendar year annually in advance on January 1st of the year for which the assessments are made. Such annual assessments shall be due and payable in equal monthly installments on the 1st day of each and every month. The Board of Managers may review and reconsider the assessments made and any increase or decrease the same such changes are required for the proper management, maintenance and operation of the common elements. In the case of an increase, the unit owners shall pay any such increase on the 1st day of the month following notice of the increase.

Section 7. All liens against the common elements of any nature including taxes and special assessments levied by governmental authority may be paid by the Board of Managers and shall be assessed by it against the unit or units in accordance with their respective interest or against all units, whichever in the judgement of the Board of Managers is appropriate.

Section 8. All other assessments, either for emergencies or otherwise, shall be made by the Board of Managers in accordance with the provisions of the Condominium Act and the Condominium documents and if the time of payment is not set forth therein, the same shall be determined by the Board of Managers.

Section 9. The assessments against all unit owners shall be set forth upon a roll of the units which shall be available in the office of the Board of Managers for inspection at all reasonable times during the weekdays by unit owners or their duly authorized representatives. Such roll shall indicate for each unit the name and address of the owner and owners, the assessments for all purposes and the amounts of all assessments paid and unpaid. A certificate made by the Board of Managers as to the status of a unit owner's assessment accounts shall limit the liability of any person for

whom made other than the unit owner. The Board of Managers, or its agent, shall issue to the first mortgagee upon its demand a certificate showing the status of the assessments due from the unit owner and shall also issue such certificates to such persons as a unit owner may request in writing.

Section 10. The owner of a unit and his grantees shall be jointly and severally liable for all unpaid assessments due and payable at the time of the conveyance but without prejudice to the right of the grantee to recover from the grantor the amounts paid by the grantee therefor. A purchaser of a unit at a judicial sale shall be liable only for assessments prorated to the period after the date of such sale.

Section 11. If any assessment or common charge shall remain due and unpaid for more than 15 days, the Board of Managers is empowered to file or record a lien therefor and to enforce the same pursuant to Section 339-aa of the Condominium Act.

Section 12- Collection of Common Charges and Assessments

If the common charge or assessment or installment thereof is not paid within 30 days after the due date; (1) the common charge or assessment shall bear interest from the due date at such rate not to exceed the maximum rate of interest then permitted by law; (2) the Board of Managers may accelerate the remaining installments, if any, of such common charges or assessments upon notice thereof to the Unit Owner which notice shall afford the Unit Owner not less than 10 days to pay such installment of common charges, and (3) the Board of Managers may bring legal action against any unit owner personally obligated to pay the same or foreclose the lien on such unit pursuant to, and in the same manner provided by, New York State Law. The cost of any such proceeding and other costs or expenses incurred in efforts to collect such past due common charges or assessments, including reasonable attorney's fees, shall be added to the amount of such common charges or assessment, accelerated installments, if any, late charges and interest. Any amounts collected on past due common charges or assessments shall be applied in the following order: attorney's fees or other costs of collection; interest; late charges and then the common charges or assessments, beginning with the common charge for assessment past due for the longest period of time".

Section 13 – Rights and Obligations Regarding Foreclosure of Liens for Unpaid Common Charges

In any action brought by the Board of Managers to foreclose a lien on a unit because of unpaid common charges, the unit owner shall be entitled to the appointment of a receiver to collect the same. The Board of Managers, acting on behalf of all unit owners, shall have the power to purchase such unit at the foreclosure sale and to acquire, hold, lease, mortgage, and vote the votes appurtenant to, convey or otherwise deal with the unit. A suit to recover a money judgement for unpaid common charges shall be maintainable without foreclosing or waiving the lien securing the same.

ARTICLE XIV RESTRICTIONS

Section 1. The Declarant, and every unit owner by the acceptance of the Deed, and their heirs, successors and assigns, covenant that they will faithfully observe all of the terms, covenants and conditions wherever imposed in this Declaration.

Section 2. The covenant in Section 1 of this Article shall not constitute a guarantee of any kind by the Declarant to pay the common expenses and charges, or any other obligations, of the unit owners other than Declarant.

Section 3. Each unit owner, his heirs, successors and assigns, further covenants:

- (a) He will not use, cause or permit the unit to be used other than as provided in this Declaration, nor will he use, cause or permit the unit to be subdivided, changed or altered without first having obtained the approval of the Board of Managers.
- (b) That he will not use, permit or allow the unit or any part thereof to be used for any immoral, improper, offensive or unlawful purpose nor will he permit or allow any nuisance within the unit nor will he use, permit or allow the unit to be used in a manner which will be a source of annoyance to residents or which in any way interferes with the peaceful possession, enjoyment or proper use of the property by the other residents.

ARTICLE XV
DEFAULT ON AND FORECLOSURE OF LIENS ON UNITS

Section 1. Upon the happening of a default under the terms of a first mortgage which would permit the holder to declare the entire principal sum due, notice of the intention of the holder to do so shall be given to the Board of Managers, but the failure to give such notice shall not prevent the holder from instituting a foreclosure action and joining the Board of Managers as a party defendant therein.

Section 2. The Board of Managers shall have the following rights, powers and privileges with respect to a first mortgage in default:

- (a) By and with the consent of the holder thereof, to remedy the defaults existing under the terms of the mortgage and to put the same in good standing. In the event the Board shall make the advances necessary to remedy the defaults, the Board shall be deemed to hold a junior participating interest in the obligation and mortgage for the sum of principal together with interest, costs, disbursements, counsel fees, insurance, taxes or other charges to advanced with the right to foreclose such junior participating interest against the defaulting unit owner for the benefit of the remaining unit owners. The holder of the mortgage shall in no event be required, or have the obligation to collect the junior interest so created on behalf of the Board.
- (b) To acquire by assignment, either before or after institution of foreclosure action from the holder thereof, said mortgage in the name of the Board or in the name of their designated nominee with all the powers and rights of the holder against the defaulting owner including the right to foreclose the same for the benefit of the remaining unit owners.
- (c) To accept from the defaulting unit owner a deed transferring the unit and its common interest and, by and with the consent of the holder of the mortgage, to remedy the defaults existing under the terms thereof for the benefit of the other unit owners.
- (d) To continue any pending action or to institute an action to foreclose any mortgage taken by assignment under subdivision (b) hereof, or to take a deed in lieu of foreclosure of the mortgage. In no event shall a unit owner be relieved from liability already incurred for past due common expenses and charges nor be relieved from personal liability on the bond, note or other obligation by reason of any conveyance made under subdivision (c) hereof or under this subdivision.

Section 3. The Board of Managers shall be a necessary party in every action brought to foreclose any mortgage or other lien affecting a unit. The Board of Managers shall be entitled to bid at any sale, whether the action be in its name or they be a defendant therein, and to purchase any unit at such sale for such amount as shall be approved by a majority of the Board taking into consideration the amount due the plaintiff, the costs and disbursements, and all other charges affecting the unit. The Board shall not, however, be limited in its bidding to such amount or total but may bid any higher sum that it finds necessary in order to protect the interests of the other unit owners.

ARTICLE XVI
COMPLIANCE AND DEFAULT

Each unit owner shall be governed by and shall comply with the terms of the Condominium documents, regulations, resolutions and decisions adopted pursuant thereto as they may be amended from time to time. A default shall entitle the Board of Managers or other unit owners to the following relief:

Section 1. Failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief or both maintainable by the Board of Managers on behalf of the unit owners, or in a proper case, by an aggrieved unit owner. In any case of flagrant or repeated violation by a unit owner, he may be required by the Board of Managers to give sufficient surety or sureties for this future compliance with the By-laws, rules, resolutions and decisions.

Section 2. Each unit owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by this act, neglect or carelessness, to the extent that such expense is not met by the proceeds of insurance carried by the Board of Managers. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy, or abandonment of a unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

Section 3. In any proceeding arising because of any alleged default by a unit owner, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be determined by the Court.

Section 4. The failure of the Board of Managers or a unit owner to enforce any right, provision, covenant or condition which may be granted by the Condominium documents shall not constitute a waiver of the right of the Board of Managers or unit owner to enforce such right, provision, covenant or condition in the future.

Section 5. All rights, remedies and privileges granted to the Board of Managers, its designated agent, or a unit owner, pursuant to any terms provisions, covenants, or conditions of the Condominium documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election or remedies nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privilege as may be granted to such party by the Condominium documents or at law or in equity.

ARTICLE XVII AMENDMENT

The Condominium documents may be amended in the following manner:

Section 1. Notice of the subject matter of the proposed amendment in reasonably detailed form shall be included in the notice of any meeting at which a proposed amendment is considered.

Section 2. A resolution adopting a proposed amendment may be proposed by either the Board of Managers or by the unit owners at a meeting called for this purpose, and after being proposed and approved by either of such bodies, must be approved by the other. Directors and unit owners not present at the meeting considering such amendment may express their approval in writing or by proxy. Such approvals must be by not less than seventy-five percent (75%) of the Managers and by seventy-five percent (75%) of the unit owners who in the aggregate own not less than seventy-five percent (75%) of the common interest.

Section 3. A copy of each amendment shall be certified by a President, Vice President, or Acting Chairman and the Secretary or Treasurer of the Board of Managers as having been duly adopted and shall be effective when recorded with the Recording Officer and filed with the Department of State. Copies of the same shall be sent to each unit owner in the manner elsewhere provided for the giving of notices but the same shall not constitute a condition precedent to the effectiveness of such amendment.

ARTICLE XVIII INSURANCE

Section 1. The Board of Managers shall obtain and maintain, to the extent available, insurance on both condominium buildings and all other insurable improvements upon the land, including but not limited to, all of the units, and equipment initially installed therein together with any service equipment and all other personal property as may be held and administered by the Board of Managers for the benefit of the unit owners covering the interest of the condominium organization, the Board of Managers and all unit owners and their mortgagees as their interests may appear. The insurance shall be purchased from recognized insurance companies duly licensed to operate in the State of New York.

Section 2. The Board of Managers shall obtain master policies of insurance which shall provide that the loss thereunder shall be paid to the Board of Managers as Insurance Trustees under this Declaration. Under the said master policies memorandums of insurance shall be issued which indicate on their face that they are a part of such master policies of insurance covering each and every unit of the Condominium and its common elements. A memorandum of insurance with proper mortgagee endorsements shall be issued to the owner of each unit and to the mortgagee, if there be one. The memorandum of insurance shall show the relative amount of insurance covering the unit and the interest in the common elements of the Condominium property and shall provide that improvements to a unit or units which may be made by the unit owner or owners shall not affect the valuation for the purposes of this insurance of the buildings and other improvements upon the land. Such master insurance policies and memorandums shall contain provisions that the insurer waives its right to subrogation as to any defense based on the invalidity arising from the acts of the insured, and providing further that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual unit owners as hereinafter permitted. The original master policy of insurance shall be deposited with the Board of Managers as Insurance Trustee and a memorandum thereof shall be deposited with any first mortgagee who may require same. The board of Mangers must acknowledge that the insurance policies and any proceeds thereof will be held in accordance with the terms hereof. The Board of Managers shall pay, for the benefit of the unit owners and each unit mortgagee, the premium for the insurance hereinafter required to be carried at least ten (10) days prior to the expiration date of any such policies.

Section 3. The property shall be covered by:

(a) Casualty or physical damage insurance in an amount equal to the full replacement value of the Condominium buildings as determined annually by the Board of Managers with the assistance of the insurance company affording such coverage. Such coverage shall provide protection against the following:

1. Loss or damage by fire and other hazards covered by the standard extended coverage endorsement together with coverage for the payment of common expenses with respect to damaged units during the period of reconstruction.
2. Such other risk as from time to time customarily shall be covered with respect to buildings similar in construction, location and use as the Condominium buildings, including but not limited to, vandalism, malicious mischief, windstorm and water damage, boiler and machinery explosion or damage, plate glass damage, and such other insurance as the Board of Managers may determine. The policies providing such coverage shall provide that, notwithstanding any provisions thereof which give the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable without the approval of the Board of Managers or where in conflict with the terms of this Declaration, and shall further provide that the coverage thereof shall not be terminated for non-payment of premiums without thirty (30) days notice to all of the insured, including each unit mortgagee.

All policies of casualty or physical damage insurance shall provide that such policies may not be cancelled or substantially modified without at least ten (10) days prior written notice to all of the insured, including all mortgagees of the units.

- (b) Public liability insurance in such amounts and in such forms as shall be required by the Board of Managers, including but not limiting the same to water damage, legal liability, and off-premises employee coverage.
- (c) Workmen's compensation insurance to meet the requirements of the law.
- (d) Fidelity insurance covering those employees of the Board of Managers and those agents and employees hired by the Board of Managers who handle Condominium funds, in amounts as determined by the Board of Managers.

Section 4. Each unit owner may obtain insurance at his own expense providing coverage upon his personal property and for his personal liability, but all such insurance shall contain the same waiver of subrogation as that referred to in the proceeding Section "2" hereof. Each unit owner may obtain casualty insurance at this own expense upon his unit but such insurance shall provide that it shall be without contribution as against the casualty insurance purchased by the Board of Managers or shall be written by the same carrier. If a casualty loss is sustained and there is a reduction in the amount of the proceeds which would otherwise be payable on the insurance purchased by the Board of Managers pursuant to the preceding section due to proration of insurance purchased by the unit owner under this section, the unit owner agrees to assign the proceeds of this latter insurance, to the extent of the amount of such reduction, to the Board of Managers to be distributed as herein provided.

Section 5. Premiums upon insurance policies purchased by the Board of Managers shall be paid by it and charged as common expenses.

Section 6. All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Board of Managers shall be paid to it. The Board of Managers shall act as the Insurance Trustee. In the event that the Board of Managers have not posted surety bonds for the faithful performance of their duties as such managers or if such bonds do not exceed the funds which will come into its hands, and there is a damage to a part or all of the Condominium property resulting in a loss, the Board of Managers shall obtain and post a bond for the faithful performance of its duties as Insurance Trustee in the amount equal to 125% of the loss before it shall be entitled to receive the proceeds of the insurance payable as a result of such loss. The sole duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein, and for the benefit of the unit owners and their respective mortgagees.

Section 7. Each unit owner shall be deemed to have delegated to the Board of Managers his right to adjust with the insurance companies all losses under policies purchased by the Board of Managers.

Section 8. In no event shall any distribution of proceeds be made by the Board of Managers directly to a unit owner where there is a mortgagee endorsement on the certificate of insurance. In such event any remittances shall be to the unit owner and his mortgagee jointly. This is a covenant for the benefit of any mortgagee of a unit and may be enforced by him.

ARTICLE XIX RECONSTRUCTION OR REPAIR OF CASUALTY DAMAGE

The Board of Managers shall arrange for the repair and restoration of casualty damage including damage to units. The Board of Managers shall disburse the net proceeds of all insurance policies arising out of such casualty to the contractors engaged in the repair and restoration and if such proceeds are insufficient for the repair and restoration, it may assess all of the unit owners for any deficit as a part of the common expenses as more fully set forth in the Declaration. However, if three-fourths or more of the Condominium property is destroyed or substantially damaged, and 75% or more if the unit owners do not duly and promptly resolve to proceed with the repair or restoration, the property will be subject to an action for partition at the suit of any unit owner or lienor, as if owned in common, in which event the net proceeds of the sale, together with the net proceeds of the insurance policies, shall be divided among all of the unit owners in proportion to their respective interest in the Condominium property, provided, however, that no payment shall be made to a unit owner until there has first been paid out of this share, all liens on his unit, in the order of the priority of such liens.

- (a) Any such reconstruction or repair shall be substantially in accordance with the original plans and specifications.
- (b) Immediately after a casualty causing damage to property for which the Board of Managers has the responsibility of maintenance and repair, the Board of Managers shall obtain reliable and detailed estimates of the cost to replace the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Managers desires.

- (c) The proceeds of insurance collected on account of casualty, and the sums received by the Board of Managers from collections of assessments against the unit owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:
1. If the amount of the estimated cost of the reconstruction and repair is less than \$20,000.00, then the construction fund shall be disbursed in payment of the such costs upon order of the Board of Managers, provided, however, upon request of a mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such funds shall be disbursed in the manner hereafter provided in the following paragraph 2.
 2. If the estimated costs of reconstruction and repair of the buildings or other improvement is more than \$20,000.00, then the construction fund shall be disbursed in payment of such costs upon approval of a registered architect or licensed professional engineer qualified to practice in New York and employed by the Board of Managers to supervise such work, payment to be made from time to time as the work progresses. Such architect or engineer shall be required to furnish a certificate giving a brief description of the services and materials furnished by various contractors, subcontractors, material-men, the architect, or other persons who have rendered services or furnished materials in connection with the work, (a) that the sums requested by them in payment are justly due and owing and that said sums do not exceed the value of the services and materials furnished; (b) that there is no other outstanding indebtedness known to the said architect for the services and materials described; and (c) that the cost as estimated by said architect or engineer for the work remaining to be done subsequent to the date of such certificate, does not exceed the amount of the construction fund remaining after payment of the sum so requested.
- (d) Encroachments upon or in favor of units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis of a proceeding or action by the unit owner upon whose property such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the building was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the building stands.
- (e) In the event that there is a surplus of moneys in the construction fund after the reconstruction or repair of the casualty damage has been fully completed and all costs paid, such sums may be retained by the Board of Managers as a reserve or may be used in the maintenance and operation of the Condominium property, or, in the discretion of the Board of Managers, it may be distributed to the unit owners and their mortgagees who are the beneficial owners of the fund.

ARTICLE XX TERMINATION

Section 1. If the Condominium shall be terminated by at least eighty percent (80%) in number and in common interest of all the units, as may be specified by the By-laws, then the property shall be subject to an action for partition by any unit owner or lien or as if owned in common, in which event the net proceeds of sale shall be divided among all the unit owners in proportion to their respective common interests, provided, however, that no payment shall be made to the unit owner until there has first been paid off out of his share of such net proceeds all liens on his unit. Such withdrawal of the property from the Condominium Act shall not bar its subsequent submission to the provision thereof in accordance with the terms of the Condominium Act.

Section 2. The Condominium shall be terminated, if it is so determined in the manner elsewhere provided that the property shall not be reconstructed after casualty and the Condominium documents shall be revoked. The determination not to reconstruct after casualty shall be evidenced by a certificate of the Board of Managers signed by the President, First Vice President, and Secretary certifying as to the facts effecting the termination, which certificate shall become effective upon being recorded with the recording officer.

Section 3. After termination of the Condominium, the unit owner shall own the property tenants in common in undivided shares and the holders of mortgages and liens against the unit or units formerly owned by such unit owners shall have mortgages and liens upon the respective undivided common interest of the unit owners. All funds held by the Board of Managers and insurance proceeds, if any, shall be and continue to be held for the unit owners in proportion to the amount of their common interest. The costs incurred by the Board of Managers in connection with the termination shall be a common expense.

Section 4. Following termination, the property may be partitioned and sold upon the application of any unit owner. If the Board of Managers following a termination, by not less than a three-fourths vote, determines to accept an offer for the sale of the property, each unit owner shall be bound to execute such deeds and other documents reasonably required to effect such sale at such time and in such forms as the Board of Managers directs. In such event, any action for partition or division of the property shall be held in abeyance pending such sale, and upon the consummation thereof shall be discontinued by all parties thereto.

Section 5. The members of the Board of Managers, acting collectively as agent for all unit owners, shall continue to have such powers as in this article are granted, notwithstanding the fact that the Board of Managers, and/or the Condominium organization itself may be dissolved upon a termination.

ARTICLE XXI COVENANTS WITH THE LAND

All provisions of the Condominium documents shall be construed to be covenants running with the land and with every part thereof and interest therein, including but not limited to every unit and the appurtenances thereto; and every unit owner and claimant of the property or any part thereof or interest therein, and his heirs, executors, administrators, successors and assigns shall be bound by all of the provisions of the Condominium documents.

ARTICLE XXII LIENS AND SUITS

Section 1. All liens against a unit owner other than for mortgage taxes or special assessments shall be satisfied or otherwise removed within thirty (30) days from the date the lien attaches. All taxes and special assessment upon a unit shall be paid before becoming delinquent.

Section 2. A unit owner shall give notice to the Board of Managers of every lien upon his unit or any other part of the property other than for mortgage taxes and special assessments within five (5) days after the attaching of the lien.

Section 3. Unit owners shall give notice to the Board of Managers of every suit or other proceeding which will or may effect the title to his unit or other proceeding which will or may effect the title of his unit or any other part of the property, such notice to be given within five (5) days after the unit owner received notice thereof.

Section 4. Failure to comply with the article concerning liens will not affect the validity of any judicial sale.

Section 5. The Board of Managers shall maintain a register of all mortgages.

ARTICLE XXIII CAPTIONS

Captions used in the Condominium documents are inserted solely as a matter of convenience and shall not be relied upon or used in construing to effect thereof meaning of any of the text of the Condominium documents.

ARTICLE XXIV GENDER, SINGULAR, PLURAL

Wherever the context so permits, the use of the plural shall include the singular, the plural and any gender shall be deemed to include all genders.

ARTICLE XXV
AGENT FOR SERVICE OF PROCESS

The Secretary of State of the State of New York is hereby designated as Agent of the Board of Mangers upon whom process against the Board may be served. Service of process against the Board of Managers shall be complete when the Secretary of State is served pursuant to the provisions of Section 339-n(7) of the New York State Real Property Law. The Board of Managers shall file with the Secretary of State the name and post office address to which the Secretary of State shall mail any process against it served upon the Secretary of State in the manner specified by Section 339-n(7) of the New York State Real Property Law and shall update the filing of such name and address as necessary.

ARTICLE XXVI
SERVERABILITY

If any provision of this Declaration, or any section, sentence, clause, phrase or work, or the application thereof in any circumstances be judicially held in conflict with the laws of the State of New York, then the said laws shall be deemed controlling and the validity of the reminder of this Declaration and the application of any such provision, section, sentence, clause, phrase or work in other circumstances shall not be affected thereby.

IN WITNESS WHEREOF, the Declarant has executed this Declaration this 27 day of July, 1998.

EDGEWATER CONDOMONIUMS

BY JOHN K. E. HORST
BY MICHAEL COOK

STATE OF NEW YORK)
: ss.
COUNTY OF CHAUTAUGUS)

On this day of July 27, 1998, before me personally came JOHN K. E. HORST to and MICHAEL COOK to me personally known, who, being by me duly sworn did depose and say that they resides at 1303 EDGEWATER DRIVE and 1308 EDGEWATER DRIVE respectively, that that they are TREASURER and PRESIDENT of the Board of Managers of Edgewater Condominiums which executed, the within instrument, and that he signed his name thereto by their order.

Laura A. Bova

Notary Public

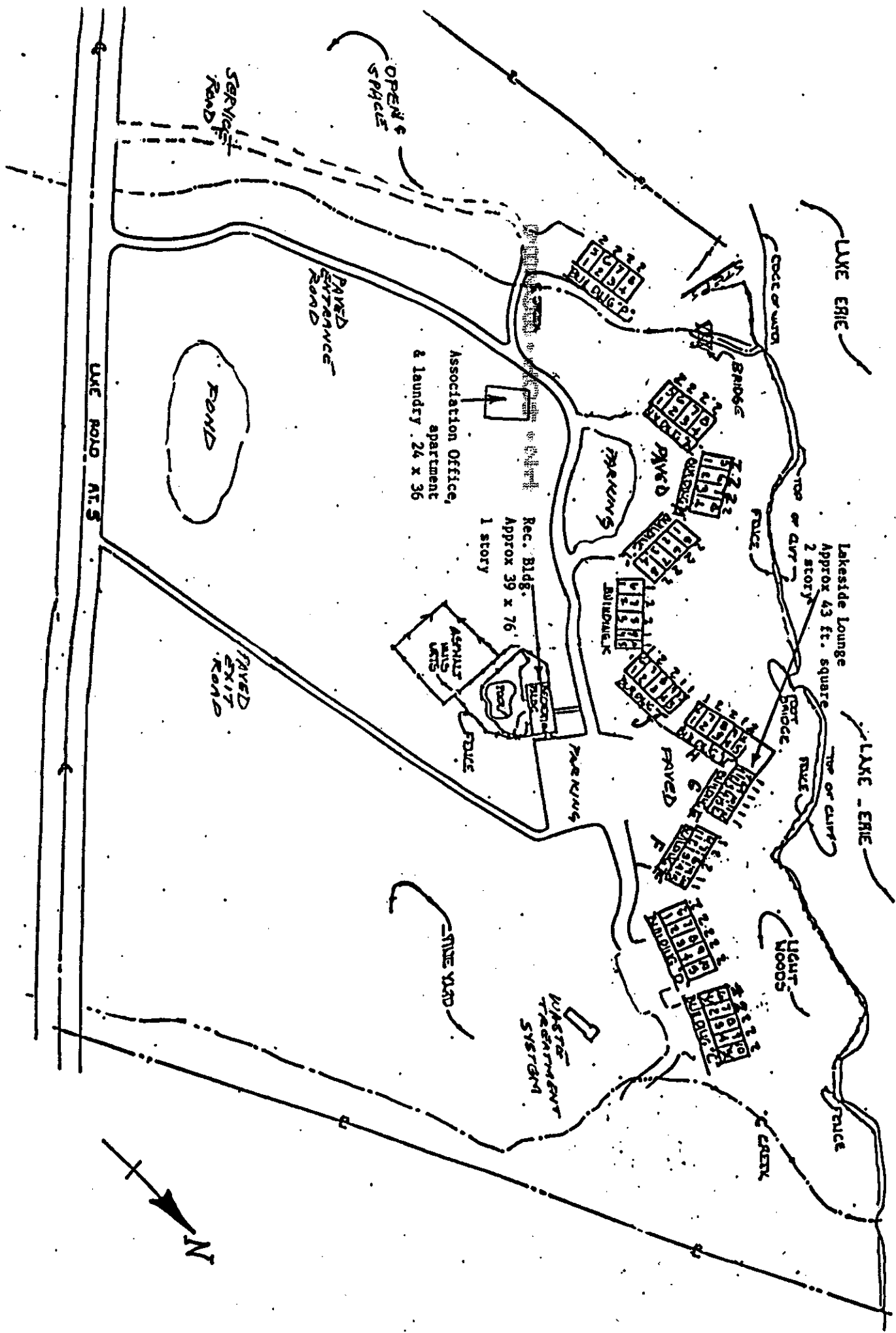
LAURA A. BOVA
Notary Public, State of New York
No. 5000235
Qualified in Chautauqua County
Commission Expires August, 10, 1998

AMENDED
DECLARATION
OF
EDGEWATER
CONDOMINIUM

1911 Edgewater Drive
Westfield, County of Chautauqua
New York 14787

EXHIBIT A - SITE PLAN





Edgewater Condominium -- Exhibit A - Site Plan

AMENDED
DECLARATION
OF
EDGEWATER
CONDOMINIUM

1911 Edgewater Drive
Westfield, County of Chautauqua
New York 14787

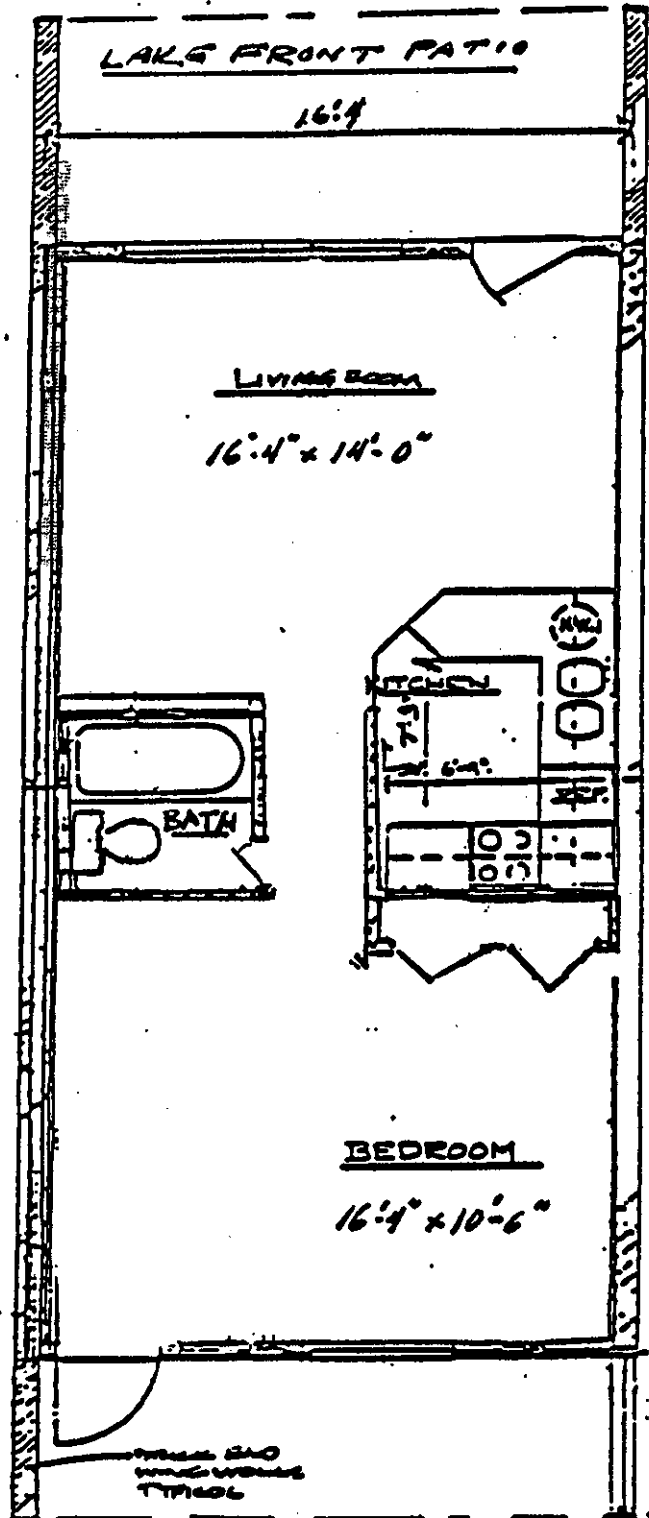
EXHIBIT B - FLOOR PLANS



EXHIBIT B - FLOOR PLANS

These floor plans are typical. The unit interior layout may vary among units of this type.

Horizontal unit dimensions are measured from the centerline of building exterior walls and walls separating the unit from other units.

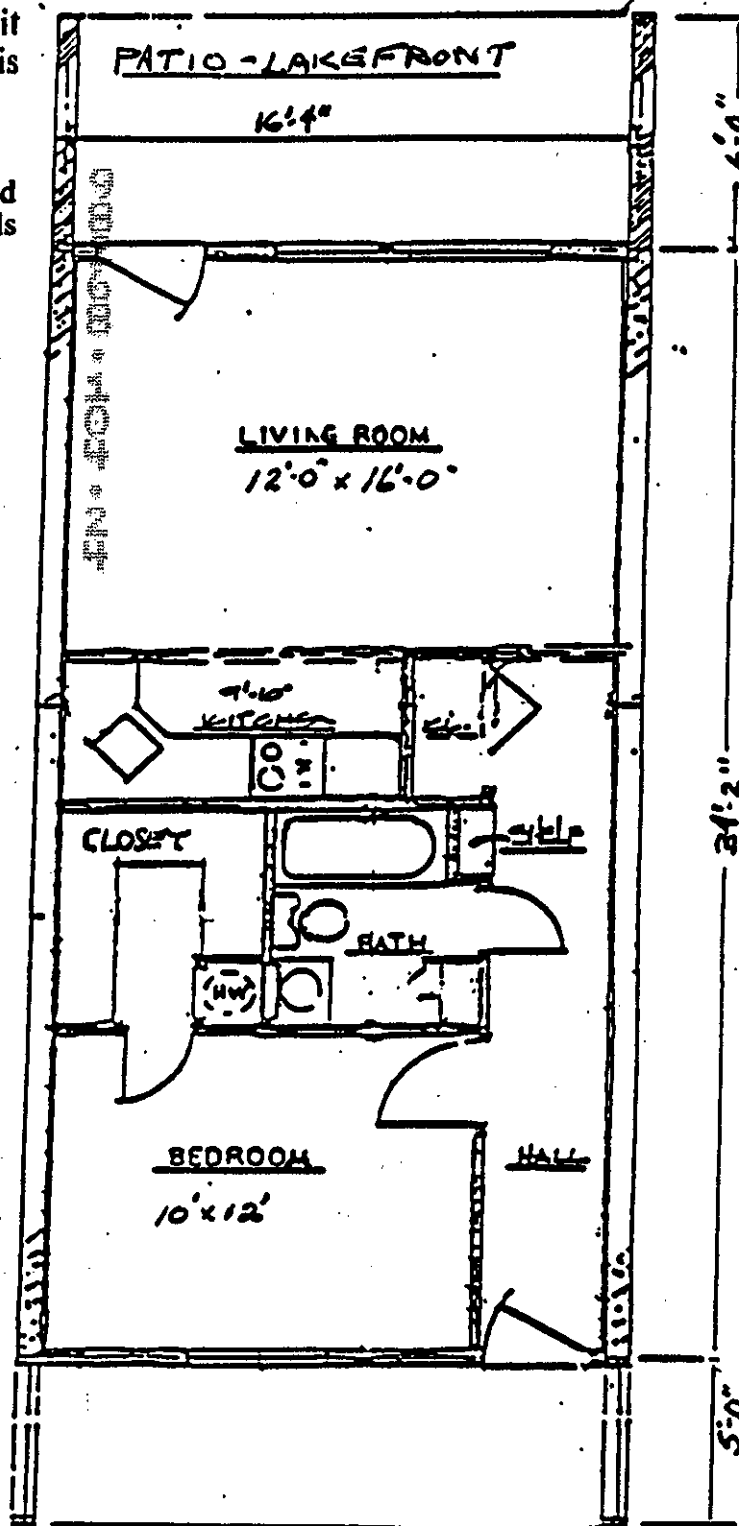


ONE BEDROOM EFFICIENCY

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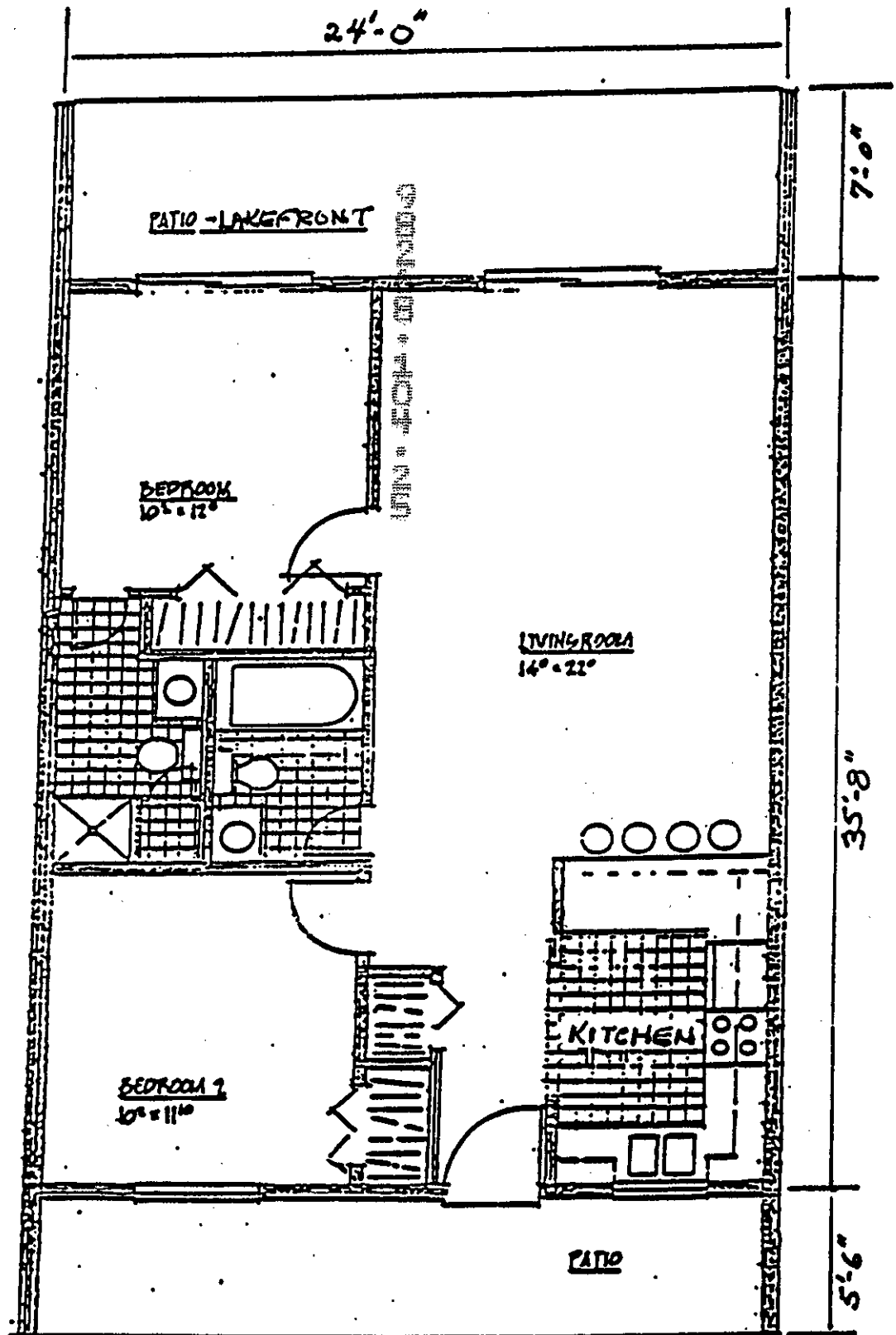


ONE BEDROOM

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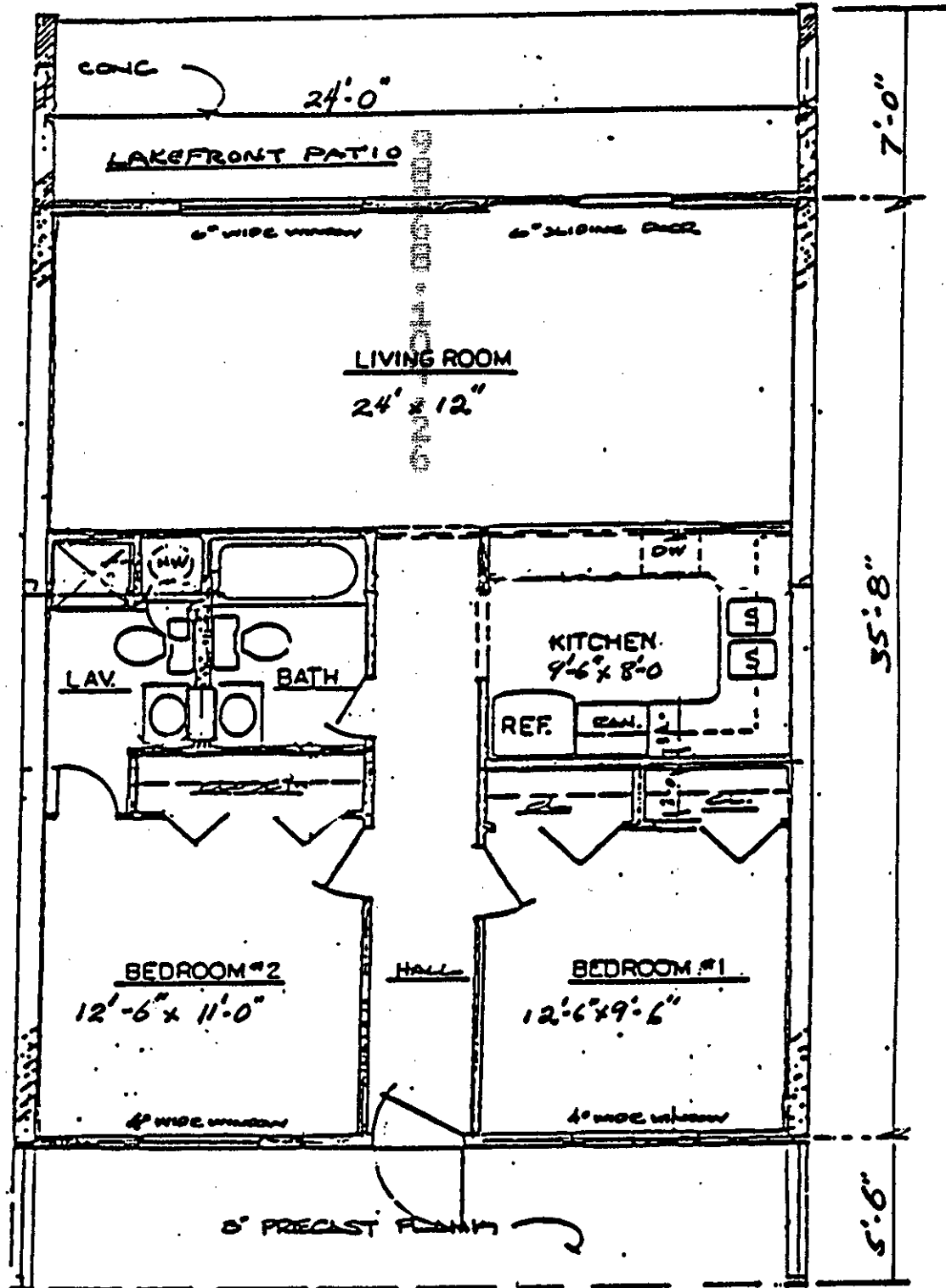


TWO BEDROOM - LAYOUT A

EXHIBIT B - FLOOR PLANS

These floor plans are typical. The unit interior layout may vary among units of this type.

Horizontal unit dimensions are measured from the centerline of building exterior walls and walls separating the unit from other units.



TWO BEDROOM - LAYOUT B

EXHIBIT A

UNIT DESIGNATIONS
PAGE 1 OF 3

Edgewater Condominium consists of 11 multi unit buildings, containing condominium units, all of which are two (2) stories.

BUILDING AND UNIT NUMBER	# OF BEDROOMS	TAX LOT NUMBER	STRUCTURE
C 1	2	23-1-5.2.C33	FRAME
C 2	2	23-1-5.2.C34	FRAME
C 3	2	23-1-5.2.C35	FRAME
C 4	2	23-1-5.2.C36	FRAME
C 5	2	23-1-5.2.C37	FRAME
C 6	2	23-1-5.2.C38	FRAME
C 7	2	23-1-5.2.C39	FRAME
C 8	2	23-1-5.2.C40	FRAME
C 9	2	23-1-5.2.C41	FRAME
C 10	2	23-1-5.2.C42	FRAME
D 1	2	23-1-5.2.C43	FRAME
D 2	2	23-1-5.2.C44	FRAME
D 3	2	23-1-5.2.C45	FRAME
D 4	2	23-1-5.2.C46	FRAME
D 5	2	23-1-5.2.C47	FRAME
D 6	2	23-1-5.2.C48	FRAME
D 7	2	23-1-5.2.C49	FRAME
D 8	2	23-1-5.2.C50	FRAME
D 9	2	23-1-5.2.C51	FRAME
D 10	2	23-1-5.2.C52	FRAME
F 1	1	23-1-5.2.C53	FRAME
F 2	2	23-1-5.2.C54	FRAME
F 3	2	23-1-5.2.C55	FRAME
F 4	1	23-1-5.2.C56	FRAME
F 5	1	23-1-5.2.C57	FRAME
F 6	1	23-1-5.2.C58	FRAME
F 7	2	23-1-5.2.C59	FRAME
F 8	2	23-1-5.2.C60	FRAME
F 9	1	23-1-5.2.C61	FRAME
F 10	1	23-1-5.2.C62	FRAME
G 1	1	23-1-5.2.C63	FRAME
G 2	1	23-1-5.2.C64	FRAME
G 3	1	23-1-5.2.C65	FRAME
G 4	1	23-1-5.2.C66	FRAME
G 5	1	23-1-5.2.C67	FRAME
G 6	1	23-1-5.2.C68	FRAME
G 7	1	23-1-5.2.C69	FRAME
G 8	1	23-1-5.2.C70	FRAME
G 9	1	23-1-5.2.C71	FRAME
G 10	1	23-1-5.2.C72	FRAME
G 11	1	23-1-5.2.C73	FRAME
G 12	1	23-1-5.2.C74	FRAME

EXHIBIT A

UNIT DESIGNATIONS
PAGE 2 OF 3

BUILDING AND UNIT NUMBER	# OF BEDROOMS	TAX LOT NUMBER	STRUCTURE
H 1	1	23-1-5.2.C75	FRAME
H 2	1	23-1-5.2.C76	FRAME
H 3	2	23-1-5.2.C77	FRAME
H 4	2	23-1-5.2.C78	FRAME
H 5	1	23-1-5.2.C79	FRAME
H 6	1	23-1-5.2.C80	FRAME
H 7	1	23-1-5.2.C81	FRAME
H 8	2	23-1-5.2.C82	FRAME
H 9	2	23-1-5.2.C83	FRAME
H 10	1	23-1-5.2.C84	FRAME
J 1	1	23-1-5.2.C85	FRAME
J 2	2	23-1-5.2.C86	FRAME
J 3	2	23-1-5.2.C87	FRAME
J 4	1	23-1-5.2.C88	FRAME
J 5	1	23-1-5.2.C89	FRAME
J 6	1	23-1-5.2.C90	FRAME
J 7	2	23-1-5.2.C91	FRAME
J 8	2	23-1-5.2.C92	FRAME
J 9	1	23-1-5.2.C93	FRAME
J 10	1	23-1-5.2.C94	FRAME
K 1	1	23-1-5.2.C95	FRAME
K 2	2	23-1-5.2.C96	FRAME
K 3	2	23-1-5.2.C97	FRAME
K 4	1	23-1-5.2.C98	FRAME
K 5	1	23-1-5.2.C99	FRAME
K 6	1	23-1-5.2.C100	FRAME
K 7	2	23-1-5.2.C101	FRAME
K 8	2	23-1-5.2.C102	FRAME
K 9	1	23-1-5.2.C103	FRAME
K 10	1	23-1-5.2.C104	FRAME
L 1	2	23-1-5.2.C105	FRAME
L 2	2	23-1-5.2.C106	FRAME
L 3	2	23-1-5.2.C107	FRAME
L 4	2	23-1-5.2.C108	FRAME
L 5	2	23-1-5.2.C109	FRAME
L 6	2	23-1-5.2.C110	FRAME
L 7	2	23-1-5.2.C111	FRAME
L 8	2	23-1-5.2.C112	FRAME

EXHIBIT A

UNIT DESIGNATIONS PAGE 3 OF 3

BUILDING AND UNIT NUMBER	# OF BEDROOMS	TAX LOT NUMBER	STRUCTURE
M 1	2	23-1-5.2.C113	FRAME
M 2	2	23-1-5.2.C114	FRAME
M 3	2	23-1-5.2.C115	FRAME
M 4	2	23-1-5.2.C116	FRAME
M 5	2	23-1-5.2.C117	FRAME
M 6	2	23-1-5.2.C118	FRAME
M 7	2	23-1-5.2.C119	FRAME
M 8	2	23-1-5.2.C120	FRAME
N 1	2	23-1-5.2.C121	FRAME
N 2	2	23-1-5.2.C122	FRAME
N 3	2	23-1-5.2.C123	FRAME
N 4	2	23-1-5.2.C124	FRAME
N 5	2	23-1-5.2.C125	FRAME
N 6	2	23-1-5.2.C126	FRAME
N 7	2	23-1-5.2.C127	FRAME
N 8	2	23-1-5.2.C128	FRAME
P 1	2	23-1-5.2.C137	FRAME
P 2	2	23-1-5.2.C138	FRAME
P 3	2	23-1-5.2.C139	FRAME
P 4	2	23-1-5.2.C140	FRAME
P 5	2	23-1-5.2.C141	FRAME
P 6	2	23-1-5.2.C142	FRAME
P 7	2	23-1-5.2.C143	FRAME
P 8	2	23-1-5.2.C144	FRAME

There is also a 2 story common rooms section connecting G and H residential buildings, a 1 story recreation building, a 1 story maintenance equipment storage structure and a 2 story main office complex and apartment as a part of the property which has been submitted to the condominium. No part of the buildings or structures or real property not constituting a unit as defined in the amended declaration are separately taxed, but 1/104 of the value of the common areas is assessed to each unit owner. All 11 buildings containing condominium units together with the recreation, equipment storage and main office building are shown on the attached site plan and all are located generally northeasterly of New York State Route 5 in the Town of Westfield, New York, adjacent to Lake Erie.

AMENDED
BY LAWS
OF
EDGEWATER
CONDOMINIUM

1911 Edgewater Drive
Westfield, County of Chautauqua
New York 14787

DECLARATION OF CONDOMINIUM

Appended as Exhibit C to the Amended
Declaration of Edgewater Condominium
dated September 15 1998



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AMENDED BY LAWS OF EDGEWATER CONDOMINIUM

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EXHIBIT "C"
AMENDED BY-LAWS
OF
EDGEWATER CONDOMINIUM

ARTICLE I
NAME AND LOCATION

These are the amended By-Laws of the Edgewater Condominium hereinafter called the Condominium. The Principal office of the Condominium shall be located on West Lake Road, Westfield, New York.

ARTICLE II
PURPOSES

This Condominium is formed under the provisions of Article 9-B of the Real Property law of the State of New York, known as the Condominium Act, to serve as the means through which the unit owners may express their opinions, wishes, and take action with regard to the administration, management and operation of the Condominium and the Condominium property described in the Declaration.

ARTICLE III
MEETINGS

Section 1. PLACE OF MEETINGS: The unit owners of the Condominium shall hold meetings at the principal office of the Condominium or at such place within the Town of Westfield, County of Chautauqua and State of New York as the Board of Managers shall authorize.

Section 2. ANNUAL MEETING: The annual meeting of the unit owners of the Condominium shall be held at the Condominium in a room designated by the Board of Managers at 4:00pm on the second Sunday in June, at which time the unit owners shall elect a Board of Managers of the Condominium, and may transact such other business as may properly come before the meeting.

Section 3. SPECIAL MEETINGS: Special Meetings of the unit owners may be called by the President, Vice-President, Secretary, or by a majority of the Board of Managers and must be called by such officers upon receipt of a written request from ten or more of the unit owners. Such written request shall state the purpose or purposes of the proposed meeting. Business transacted at a Special Meeting shall be confined to the purposes stated in the notice.

Section 4. FIXING RECORD DATE: For the purpose of determining the unit owners entitled to notice of any meeting of the Condominium, or any adjournment thereof, or for the purpose of any other action, the Board of Managers shall fix in advance, a date as the record date for such determination. Such date shall not be more than thirty nor less than ten days before the date of the meeting. If no record date is fixed, then the date shall be determined in accordance with the provisions of law relating thereto.

Section 5. NOTICE OF MEETING: Notice of meetings of the unit owners of the Condominium shall be in writing. Notice of the meetings other than the annual meeting shall indicate and state that it is being issued by or at the direction of the person or persons calling the meeting. Such notice shall be mailed or delivered not less than five nor more than twenty days prior to the date of the meeting. Notice of all meetings at which disposition is to be made of assets, placing of liens, imposing assessments for major repair or improvement, granting of rights or easements in the Condominium property must also be given to the holders of first mortgages on the units.

Section 6. WAIVER OF NOTICE: Notice of the meetings need not be given to any unit owner who signs a waiver of notice either in person or by proxy whether before or after the meeting. The attendance of any unit owner at a meeting, in person or proxy, without protesting prior to the conclusion of the meeting the lack of proper notice of such meeting shall constitute a waiver of notice of the meeting by him.

Section 7. QUORUM OF UNIT OWNERS: A quorum of unit owners' meetings shall consist of persons holding thirty or more units, entitled to vote thereon. The subsequent joinder of a unit owner in the action taken at a meeting by signing and concurring in the minutes thereof shall constitute the presence of such person for the purpose of determining a quorum. When a quorum is once present to organize the meeting, it cannot be broken by the subsequent withdrawal of a unit owner or owners. The unit owners present may adjourn the meeting despite the absence of a quorum.

Section 8: VOTING: Each unit owner shall be entitled to an equal vote with all other unit owners; i.e. 1/104. When more than one person holds an interest in any unit, the vote for such unit shall be exercised as the owners among themselves determine, but in no event shall more than one vote be cast with respect to any unit. Each unit owner shall be entitled to vote at all meetings of unit owners. Each vote shall be cast by the unit owner or by his proxy when filed with the Secretary of the condominium. A unit which has been acquired by the Board of Managers in its own name or in the name of its agent, designee or nominee on behalf of all of the unit owners shall not be entitled to a vote so long as it continues to be so held.

Section 9. PROXIES: A vote may be cast in person or by proxy. To be valid, proxies must be duly signed and acknowledged by the unit owner and must be filed with the Secretary before the appointed time of the meeting. A proxy is valid only for the particular meeting designated therein. A proxy may be revoked by the unit owner by appearance in person at the meeting and there and then filing with the Secretary at that time notice of the revocation.

Section 10. ACTION OF THE UNIT OWNERS: A quorum being present, a vote of the majority of those present shall constitute the action of the unit owners and be binding upon all unit owners except as to those matters where the law and condominium documents require a different majority.

Section 11. WRITTEN CONSENT OF UNIT OWNERS: APPROVAL OR DISAPPROVAL: Any action that may be taken by a vote may be taken without a meeting on written consent duly acknowledged setting forth the action so taken or to be taken of the unit owners holding in interest the majority of the shares entitled to vote thereon in accordance with Section 8 hereof. Approval or disapproval of a unit owner on any matter whether or not the subject of a meeting shall be by the person holding title to the unit on the books of the Condominium at the time of the execution of the instrument, if no meeting is being held, or by the person owning the unit on the record date, if such record date has been fixed and a meeting is to be held.

Section 12. ORDER OF BUSINESS: The order of business at the annual meeting of the unit owners of the Condominium shall be:

The Current Board President shall chair the meeting.

- (a) **Calling the roll and certifying the proxies.**
- (b) **Proof of notice of the meeting or certification as to waivers.**
- (c) **Reading and disposal of unapproved minutes.**
- (d) **Reports of the Board of Managers of the Condominium**
- (e) **Introduction of the inspectors of election who have been appointed by the Board President in accordance with the By-laws.**
- (f) **Election of Board of Managers of the Condominium**
- (g) **Unfinished Business**
- (h) **New Business**
- (i) **Adjournment.**

Section 13. The order of business at all other meetings of the unit owners shall, as far as practical, conform to the order of business at the annual meeting insofar as the special purpose of the meeting will permit.

**ARTICLE IV
MANAGERS**

Section 1. BOARD: The Condominium shall be managed by a Board of Managers, each of whom shall be over the age of twenty-one years, and a unit owner.

Section 2. NUMBER AND TERM OF OFFICE: The Board of Managers shall consist of five persons. Members of the Board shall be elected for a term of two years and the terms of at least 1/3 of the members of the Board shall expire annually. The Board may be enlarged in multiples of two in the manner set forth in Section 3-I, but in no event shall the Board consist of more than nine.

Section 3. NOMINATION AND ELECTION:

A. At least two months preceding the annual meeting of the Condominium, there shall be appointed by the President, a nominating committee of seven; two of whom shall be members of the Board whose term of office does not expire at the time of the ensuing annual election, if there be such members of the Board; five of whom shall be unit owners holding no office in the Condominium. The nominating committee shall meet with speed and after considering the qualifications of persons, shall select a person or persons to be proposed for election to the Board of Managers at the forthcoming annual meeting of the Condominiums. No member of the nominating committee shall be eligible for any nomination by said committee at such election. Such committee shall report its nominees by notice sent by mail to the unit owners at least one month prior to the date of the annual meeting. The names of the nominees shall be either typed or printed upon a ballot as candidates for the Board.

B. Any ten unit owners in good standing may nominate candidates to the Board of Managers by presenting such nominations in writing, signed by them, to the chairman of the nominating committee or to the secretary of the Condominium and there upon the names of such candidates shall also be typed or printed on the official ballot with a special note as to the rights of any of the nominators. Such petition shall be presented no less than sixteen (16) days before the annual meeting.

C. Before balloting for an officer or manager, the President of the Condominium shall appoint three inspectors of election who shall collect, receive, canvas and report the votes cast at such election. The inspectors shall not be candidates.

D. A typed or printed ballot shall be prepared by the nominating committee and mailed to each unit owner at least fourteen (14) days before the annual meeting. Where there is more than one candidate for Board vacancies, such names shall be arranged in alphabetical order.

E. The candidates receiving a plurality (a number of votes cast that is greater than the number cast for any other candidate) of the votes cast for Board vacancies shall be declared elected. In the case of a tie vote as to the last place to be filled, a new ballot shall be cast in order to determine the last successful candidate excluding those with a smaller number of votes who shall be declared defeated.

F. No unit owner who has failed to pay his common expenses and charges and against who a lien therefore is being prosecuted shall be eligible for election as an officer or as a member of the Board of Managers.

G. Members of the Board of Managers and the officers of the Condominium shall be installed at the next meeting of the Board after their selection.

H. Managers to be elected to fill any vacancies due to death, resignation or removal shall serve for the remaining unexpired term of the managers they replace. Managers are elected otherwise to serve for two years.

I. If the number of managers shall have been increased they shall be elected at a special meeting called for that purpose in the manner prescribed herein.

Section 4. REMOVAL AND RESIGNATION:

A. A manager may be removed for cause by vote or action taken by the Board of Managers or by the unit owners at a special meeting called for that purpose.

B. Managers may not be removed without cause unless notice of the request for their removal and their resignation has been given to them and a special meeting has been called for that purpose.

C. A manager may resign at any time by giving written notice to the Board of Managers, the President or the Secretary. Unless otherwise specified in the letter of resignation, the resignation shall take effect immediately upon receipt thereof by the Board of Managers or by the officers designed to receive the same and acceptance of the resignation shall not be necessary to make it effective. A resignation will not relieve the manager resigning from his liability by reason of malfeasance or negligence while in office.

Section 5. QUORUM. A majority of the Board of Managers shall constitute a quorum for the transaction of business or for any specific item of business. If at any meeting there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At an adjourned meeting any business which could have been transacted at the meeting originally called may be transacted without further notice. The acceptance by a manager in the action of a meeting, by signing and concurring in the minutes, thereof shall constitute the presence of such manager for the purpose of determining the presence of a quorum.

Section 6. ACTION OF THE BOARD: A quorum being present, a vote of the majority of those present shall constitute the action of the Board of Managers except as to those matters where the law and Condominium documents require a different majority.

Section 7. VACANCIES IN THE BOARD: Vacancies in the Board may be filled until the date of the next annual meeting of the unit owners by the remaining members of the Board where the period between such appointment and the date of annual meeting is three months or less. Where the period remaining before the date of the annual meeting is more than three months a special meeting of the unit owners is required to fill the vacancy. The Board of Managers shall not fill a vacancy in the Board unless such appointment is required by law or the Condominium documents to properly function as a Board.

Section 8. TIME AND PLACE OF BOARD MEETINGS: The Board of Managers shall meet regularly at least once a month. It may hold its meetings at the office of the Condominium or at such other places within the Town of Westfield, County of Chautauqua, State of New York as it may determine. The annual meeting of the Board shall be held immediately following the annual meeting of the unit owners at the place where such annual meeting of the unit owners is held. A special meeting of the Board of Managers may be called by the President or vice President on two days notice given either in writing, in person, by telephone, or by wire to each manager. Such special meeting must be called on the demand or request of two members of the Board.

Section 9. NOTICE OF MEETINGS AND WAIVERS: Regular meetings once established may thereafter be held without notice at the time and at the place agreed upon by the Board. If the time or the place of a regular meeting be changed by circumstances beyond the control of the Board notice of the change shall be given in the same manner as for a special meeting. Notice of a meeting need not be given to any manager who submits a waiver of notice, whether such waiver be before or after the meeting. Attendance at the meeting shall be deemed to be a waiver of notice thereof.

Section 10: PRESIDING OFFICER: The President, or in his absence the Vice President, or if both be absent, then a chairman selected and chosen by the Board shall preside.

Section 11. FEES: The fees or other compensation, if any, of all officers of the condominium and of the members of the Board shall be determined by the unit owners at a meeting.

Section 12. POWERS AND DUTIES OF THE BOARD: The Board shall have all powers, and may exercise those powers, granted to it under the Condominium documents. The Board of Managers shall exercise its powers and duties in accordance with the provisions of the Declaration. These include the power:

- a. To make, levy, and assess common charges against the unit owners for the purpose set forth in the Declaration and to use the same in the exercise of its power and duties.
- b. To maintain, repair, replace and operate the Condominium property and in case of casualty to reconstruct and re-establish the property and to make improvements therein.
- c. To contract for the management of the property; to enforce by legal means all of the provisions of the Condominium documents, these By-laws, the Rules and Regulations of the Condominium and the resolutions and decisions rendered in pursuance of the By-laws.
- d. To prevent loss or damage to the Condominium by paying taxes, assessments, or water rents or other liens against any part of the Condominium common interest and to assess the same against the unit or units subject to such liens.
- e. To fix and assess charges for use of recreation facilities for special occasions as provided in the Declaration.
- f. To temporarily close public places in the Condominium when required for a special use.
- g. To make or amend rules and regulations respecting the use and operation of the property but not inconsistent with the Declaration.
- h. To pay the cost of all power, water, sewer, or other utility or service rendered to the Condominium which cannot be separately billed to the unit owners.
- i. To enforce the provisions of the Condominium documents by legal action if necessary and to employ legal accounting, maintenance or other personnel for reasonable compensation to perform the service required for the proper administration of the Condominium.
- j. To purchase in its own name or in the name of its agent, designee or nominee either at foreclosure sale or from a defaulting unit owner in lieu thereof and to hold, mortgage or lease any unit.
- k. To accept a deed in its own name or in the name of its agent, designee or nominee from a unit owner who desires to relieve himself from the payment of future common charges.
- l. To take possession of any abandoned unit to prevent damage to the other units or to the common elements.
- m. To hire and discharge persons employed for the operation of the property on such terms and conditions as the Board in its sole discretion may deem advisable.
- n. To do any and all things which prudent operation of the Condominium would require.

ARTICLE V OFFICERS

Section 1. At the first meeting of the Board of Managers of the Condominium after the annual meeting of the owners, there shall be elected, a President, Secretary, Treasurer and such Vice Presidents to assist the President as may be required but not exceeding three. These officers shall all serve for a term of one year, and they shall be members of the Board of Managers.

Section 2. **PRESIDENT:** Shall be the Chief Executive officer of the Condominium and he shall have all of the powers and duties usually vested in a President of the Condominium, including the power to appoint committees as he may, with the consent of the Board of Managers, deem appropriate. He shall exercise such other powers and duties as shall be prescribed by the Board. He shall see that all orders and resolutions of the Board shall be carried into effect. He may delegate some of his duties to Vice Presidents.

Section 3. **VICE PRESIDENT:** The Vice President shall perform all duties as shall be delegated to him by the President. He shall serve as chairman of the respective committees, which the Board of Managers shall deem appropriate. If there is more than one Vice President, they shall exercise the powers and perform the duties of the President in his absence or disability in the order of their appointment.

Section 4. **SECRETARY:** The Secretary shall see that records of all actions of the Board, the annual meeting and any special meeting of unit owners called by the board for a specific purpose (excluding regular informational monthly meetings) are kept. He shall attend to the giving of all notices to the unit owners and/or managers and shall supervise the services thereof. He shall see to the preparation and have available at each meeting of the unit owners a certified list in alphabetical order of the names of the unit owners and of their common interest and certify which of them are entitled to vote. He shall perform all other duties incident to the office of Secretary of the Condominium as may be required by the President of the Board of Managers.

Section 5. **TREASURER:** The Treasurer shall be responsible for the maintenance of the financial records of the Condominium and shall keep books of account and shall have custody of all the common property of the Condominium including all funds, securities and evidence of indebtedness. He shall keep the assessment roll and the accounts of the unit owners. He shall perform all other duties incident to a Treasurer of a Condominium as prescribed by the Board. He shall deposit all monies and other valuables in the name of and to the credit of the Condominium as may be ordered and authorized by the Board and shall preserve proper vouchers for such disbursements. He shall render an annual report at the annual meeting of the unit owners. The Treasurer and the President shall, as prescribed by the Board, report on the operation of the Condominium property and the payment of common expenses and the termination and collection of the common charges.

Section 6. All employees as such of the Condominium may be removed peremptorily by the Board. The officers may be removed in the same manner as the manager can be removed as provided in Section 4 of Article IV.

ARTICLE VI FISCAL MANAGEMENT

Section 1. The provisions for fiscal management of the Condominium as set forth in the Declaration shall be supplemented as follows:

A. The assessment roll shall be maintained in a set of accounting books in which there shall be an account of each unit. Such account shall designate the name and address of the owner or owners, the amount of each assessment against the owner, the dates and amounts in which the assessment comes due, the amounts paid upon the account and the balance due on the assessment. In making up the assessment roll the unit is treated as such and no division shall be made because the unit is held by more than one person.

B. The Board of Managers shall adopt a budget for each calendar year which shall contain estimates of the cost of performing the various functions of the Condominium and shall include among its items:

1. Common Expenses budget:

- a. Maintenance and operation of common elements, including landscaping.
- b. Utility service
- c. Casualty Insurance
- d. Liability Insurance
- e. Administration
- f. Any other items which the Board finds necessary to include therein.

2. The proposed assessment against each unit owner.

Section 2. Copies of the proposed budget and proposed assessments shall be transmitted to each unit owner on or before January 1st of the year for which the budget is made. If the budget is subsequently amended before the assessments are made, a copy of the amended budget shall be furnished to each unit owner concerned.

Section 3. The depository of the Condominium shall be such bank or banks as shall be designated from time to time by the Board of Managers. The monies of the Condominium shall be deposited therein. Withdrawal of monies from such accounts shall be only by check signed by such persons as are authorized by the Board of Managers.

Section 4. A financial review of the accounts of the Condominium by a public accountant shall be made annually unless a full audit is requested by petition of at least ten unit owners. A copy of the accountant's report shall be furnished upon request to each unit owner not later than ninety days after the end of the year for which the report is made.

Section 5. FIDELITY BONDS: Bonds may be required by the Board of Managers for all officers and employees of the Condominium. The amounts of such bonds shall be determined by the Board. The premium on such bonds shall be paid by the Condominium.

ATTICLE VII
PARLIMENTARY RULES

Roberts Rules of Order (latest edition) shall govern the conduct of proceedings except where the Declaration or the laws of the State of New York require a different method of procedure.

ARTICLE VIII
AMENDMENTS

Section 1. Amendments to the By-laws shall be proposed by either a majority of the Board of Managers or by ten unit owners of the Condominium. The proposed amendments must be reduced to writing and must be accompanied by the opinion of legal counsel as to whether the amendment is permitted under the Declaration and Article 9-B of the Real Property law of the State of New York. It shall be included in the notice of any meeting at which action is to be taken thereon.

Section 2. A resolution adopting a proposed amendment may be proposed by a member of the Board of Managers or by a unit owner at a meeting called for this purpose, and after being proposed and approved by either of such bodies, must be approved by the other. Managers and unit owners not present at the meeting considering such amendment may express their approval in writing or by proxy. Such approvals must be by not less than seventy-five percent (75%) of the Managers and by seventy-five percent (75%) in number of all the unit owners who in the aggregate own not less than seventy-five (75%) of the common interest.

Section 3. An amendment when adopted shall become effective only after being recorded with the recording office in the same place where the Condominium documents are recorded.

ARTICLE IX
MEMBERSHIP LIST

Section 1. Each unit owner shall have his name and address set forth on the membership list of the Condominium. Upon presentation of satisfactory proof of the change of ownership of the unit to the Secretary of the Condominium, the membership list shall be changed to set for the new owner's name and address.

Section 2. In the determination of the record date for the purpose of voting, the ownership of the unit upon the membership list of the Condominium shall prevail.

Section 3. The Board shall have the power to close the membership list for ten days preceding any special or annual meeting of the unit holders.

ARTICLE X
FISCAL YEAR

The fiscal year shall begin on the 1st day of January and shall end on December 31 of each year effective January 1, 1993. The fiscal year shall not be changed except for provided for in Article VIII.

ARTICLE XI
EXECUTION OF INSTRUMENTS

All instruments of the condominium shall be signed, executed and acknowledged under seal by such officer or officers, as the Board of Managers shall designate.

ARTICLE XII
RULES AND REGULATION

The rules and regulations of the Condominium are intended to govern the details of the operation and the use of the common elements and the restrictions and requirements for the use and maintenance of the unit. They are designed to prevent unreasonable use of their respective units and the common elements by other unit owners. The rules and regulations may be amended from time to time by the Board of Managers.

The foregoing By-laws have been duly adopted by the Board of Managers and these by-laws were declared by said Board to be placed in operation at its first meeting held on the 27th day of July, 1998.

Elaine Prince
Secretary

Approved:

John E. East

Treasurer

12531

LIBER 1318 PAGE 155

DECLARATION

Establishing a Plan for Condominium ownership of the premises known as Edgewater Recreation Condominium, Town of Westfield, New York, pursuant to Article 9-B of the Real Property Law of the State of New York.

Name: Edgewater Recreation Condominium
 Sponsor: Edgewater Recreation, Inc.
 West Lake Road
 Westfield, New York 14587
 Date of Declaration: December 10, 1981

9-16-91
 See P/A

L _____
 P _____
 HRW Jr. CLK.

The land affected by the within instrument lies in the Town of Westfield, County of Chautaugua, New York.

Ends P. 224

Amend.
 ✓ 1930-353 7/6 change
 ✓ 1949-202 7/6 "
 ✓ 2031-439 7/6 "
 ✓ 2043-439 7/6 "
 (9-4-92) 2279-448 7/6 Fixed year

9-15-98
 See amended
 Declaration
 L2396 P547
 Douglas A. Clark

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DECLARATION

Of The

EDGEWATER RECREATION CONDOMINIUM

(Pursuant to Article 9-B of the Real Property Law)

THIS DECLARATION made this 10th day of December, 1981, by EDGEWATER RECREATION, INC., a New York Corporation, having its principal office at West Lake Road, Westfield, County of Chautaugua, New York, hereinafter called the Declarant;

WITNESSETH:

WHEREAS, the Declarant is the owner in fee simple of the property hereinafter described and has plans to construct thereon one hundred sixty-six (166) multi-unit buildings; and

WHEREAS, by this Declaration, the Declarant intends to subdivide the property into real estate parcels or units and to establish a Condominium under the provisions of Article 9-B of the Real Property Law of the State of New York, hereinafter called the Condominium Act; and

WHEREAS, a Condominium is a method of ownership which, when applied to multi-unit buildings, provides for a separate title to each unit and an undivided interest in and to all of the property that remains; and

WHEREAS, the said Condominium Act requires that the rights, privileges and obligations of the Declarant, unit owners, Board of Managers, mortgagees and others interested therein, be explicitly set forth;

NOW, THEREFORE, the Declarant, pursuant to the Condominium Act, does hereby declare and state on behalf of itself, its successors and assigns, and on behalf of all persons having or seeking to acquire any interest of any nature whatsoever in the said Condominium property, as follows:

ARTICLE I

INTENTION

The Declarant states that it is the owner in fee simple of and hereby submits the property hereinafter described to the provisions of the Condominium Act.

ARTICLE II

EFFECTIVE DATE OF THE CONDOMINIUM

The effective date of the Condominium is the date when this Declaration is recorded and the other Condominium documents filed in the office of the Clerk of the County of Chautauqua. From and after the date of the recording of this Declaration, the property hereinabove described shall be and shall continue to be subject to each and all the terms hereof until this Declaration and this Condominium is terminated or abandoned in accordance with the provisions of the Condominium Act and of this Declaration.

ARTICLE III

DESCRIPTION OF PROPERTY

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Westfield, County of Chautauqua, State of New York, being part of Lots 4 and 5, Town 4, Range 14 of the Holland Land Company's Survey, and being more fully described as:

Beginning at the point of intersection of the easterly line of said Holland Land Company Lot No. 4 (being also the westerly line of Lot No. 5) and the centerline of New York State Highway No. 9030 (N.Y.S. Route 5); thence North $54^{\circ} 39' 34''$ East along said Highway centerline, 844.69 feet to an iron pin; thence North $16^{\circ} 21' 58''$ West 33.38 feet to an iron pin; thence continuing along the same course 641.62 feet to another iron pin; thence still continuing along the same course 655.88 feet to another iron pin; thence still continuing along the same course 22.12 feet to another iron pin; thence still continuing along the same course to the low water line of Lake Erie; thence southwesterly along the low water line of Lake Erie to its point of intersection with an imaginary line running North $00^{\circ} 11' 30''$ East from a point on the centerline of said Highway lying 1162.45 feet southwesterly, measured along said Highway centerline, from the point of beginning of the premises herein described; thence South $00^{\circ} 11' 30''$ West to an iron pin; thence continuing along the same course 145.05 feet to another iron pin; thence still continuing along the same course 1114.43 feet to another iron pin; thence still continuing along the same course 40.52 feet to an iron pin on the centerline of said Highway; thence North $54^{\circ} 43' 00''$ East 64.16 feet to an iron pin on said Highway centerline; thence North $54^{\circ} 39' 34''$ East, along said Highway centerline, 1098.29 feet to an iron pin at the point or place of beginning.

Hereby intending to convey same premises conveyed to Paul E. Haas by warranty deeds recorded in Chautauqua County Clerk's Office in Liber 1481 of Deeds at page 20 and Liber 1559 of Deeds at page 63.

Subject to covenants, easements and restrictions of record, if any.

ARTICLE IV

DEFINITION AND TERMS

The following terms when used in this Declaration and in the other instruments constituting the Condominium documents are intended to be consistent with the meanings ascribed to them by the Condominium Act and are defined herein as follows:

1. "Apartment unit" means a unit which may be used for a residence only.
2. "Assessment" means that portion of the cost of maintaining, repairing and managing the property which is to be paid by each unit owner as determined by the Board of Managers.
3. "Board of Managers" means the group of persons selected, authorized and directed to manage and operate the Condominium as provided by the Condominium Act, this Declaration and the By-Laws.
4. "Buildings or building" means the sixteen (16) multi-unit buildings, Lakeview Lounge and Recreation building to be erected on the premises described in Article III plus the existing manager's residence.
5. "Common charges" means each unit's share of the common expenses in accordance with its common interest in relation to the entire project, as determined by the Board of Managers.

6. "Common elements" means all that part of the Condominium property other than a unit shown on the plans, Exhibit "A" (site plan), annexed hereto or as filed in the Chautauqua County Clerk's office including but not limited to lake side recreational lounge, recreational area with swimming pool, tennis courts, two story frame manager's residence, roadways and parking areas, water reservoir pumps and filtration system and waste water treatment facilities.

7. "Common expenses" means and includes the actual and estimated expenses of operating the property and any reasonable reserve for such purposes as found and determined by the Board of Managers and all sums designated common expenses by or pursuant to the Condominium documents.

8. "Common interest" means the proportionate undivided interest in the fee simple absolute in the common elements appertaining to each unit as expressed in this Declaration.

9. "Common profits" means the excess of all receipts of the rents, profits and revenues from the common elements or other assets of the Condominium organization remaining after deduction of the common expenses and allowing for the retention of a reasonable reserve for future expenditures, all as fixed by the Board of Managers.

10. "Common surplus" means the excess of all receipts of the Condominium organization including but not limited to assessments, rents, profits and revenues on account of the common elements, over the amount of common expenses.

11. "Common documents" means and includes this Declaration as the same may be amended from time to time and the exhibits annexed hereto and identified as follows:

EXHIBIT A: Site plan;

EXHIBIT B: 3-dimensional floor plans;

" B-1: Unit No. and Tax Lot Identification

EXHIBIT C: By-Laws of this Condominium

12. "Condominium parcel" means a unit together with the undivided share in the common elements which is appurtenant to the unit.

13. "Condominium property" means and includes the land in the Condominium, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto for use in connection with the Condominium.

14. "Declarant" means Edgewater Recreation, Inc., its successors and assigns, as the maker of this Declaration, the Sponsor in the Offering Plan, the Seller in the Contract of Sale, and the Party of the First Part in the Deed conveying the units.

15. "Declaration" means this instrument by which the property is submitted to the provisions of the Condominium Act and such instruments as from time to time amend the same in accordance with said Act and the By-Laws of this Condominium.

16. "Family" as used in this Declaration and in the By-Laws and Rules and Regulations means the immediate family of the unit owner. It includes a husband and wife, their children and a total of no more than two of their parents, brothers or sisters. For example, there may be one parent and a brother, or a brother and sister, or any other combination of two.

17. "Majority" of unit owners and specified percentages of unit owners is the "majority" as set forth in the By-Laws or in this Declaration for each particular determination, pursuant to Section 339-e, subparagraph 8, of the Condominium Act.

18. "Operation of the property" means and includes the administration of the project, the operation, maintenance, repairs or replacement of and the making of any additions or improvements in the common elements.

19. "Person" means a natural person, a corporation, partnership, the Condominium Organization herein referred to, trustee or other legal entity.

20. "Plans and specifications" means the plans and specifications prepared by William Jehle and David Daigler, Licensed Professional Engineer, set forth in Article V.

21. "Property" or "Premises" means and includes the land, the buildings and all other improvements thereon as set forth in this Declaration and the easement rights and appurtenances thereunto belonging, and all other property, real, personal or mixed intended for use in connection with this Condominium.

22. "Recording Officer" means the Clerk of the County of Chautaugua and "recording" or "recorded" means the filing for the purpose with the said Clerk of the County of Chautaugua and the payment of the proper fees therefor.

23. "Share" means the percentages in and to the common elements attributed to each unit.

24. "Site and floor plans" means the site and floor plans of the buildings showing the layout, location, approximate dimensions of the unit, the unit designations prepared by William Jehle and David Daigler, Licensed Professional Engineers.

25. "Unit" means one of the parcels of property intended for use as a private residence which is privately owned and has a unit designation.

26. "Unit designation" means the number, letter or combination thereof or other official designations conforming to the tax lot number, if any, as shown on the floor plans annexed to this Declaration.

27. "Unit owners" means the person or persons owning a residential unit in fee simple, including the Sponsor.

ARTICLE V

BUILDINGS TO BE ERECTED

The Declarant intends to construct one hundred sixty-six units in sixteen (16) buildings together with recreational facilities and a lake view lounge, located on the above described premises in Article III, and with approximately 3.3 units per acre. There are three basic units in each building: one bedroom unit, one bedroom unit with balcony area, two bedroom unit. Each unit has a private entrance. Each building will be two-story, however, each unit will be either on the ground level or on the second story. Each one bedroom unit will have available one outside parking space. Each two bedroom unit will have available two outside parking spaces. All parking spaces, however, will be common areas for the use of all unit owners and will not be assigned as part of any one unit.

The Plans and Specifications, setting forth the details of the above buildings were prepared by William Jehle, residing at Williamsville and David Daigler, residing at Swormville, New York, licensed Professional Engineers, and are on file in the office of the Clerk of the Town of Westfield, New York and in the office of the Declarant.

ARTICLE VI

UNIT DESIGNATIONS AND DESCRIPTION

The unit designation of each residential unit, its location, dimensions, approximate area, number of rooms and common elements to which it has immediate access, and other data concerning proper identification, are as set forth in the site and floor plans marked Exhibit "A" and "B" and attached hereto and made a part hereof. Each unit shall be a separate freehold estate. Each such unit shall be subject to such encroachments as are contained in the building, whether the same now exist or may be caused or created by construction, settlement or movement of the buildings, or by permissible repairs, construction or alteration.

The unit description, horizontally, consists of the area measured horizontally from the center of the exterior walls of the building to the center of the opposite exterior wall of the building, or the center of the partition that separates such unit from other units, as the case may be.

The unit description, vertically, for the second story units, consists of the area measured vertically from the center of the floor to the center of the ceiling; for one-story ground level units the area is measured from surface of concrete floor slab to the center of the ceiling.

Each unit shall include electrical and plumbing outlets within the unit, all windows, screens, and the entrance door and its hardware, but not the exterior finish of said door.

Each unit does not include the structural members of the building or pipes, ducts, wires, conduits, improvements and other facilities running through any wall, partition, floor or ceiling.

Every conveyance or lien using the unit designation assigned to it shall be deemed to include its proportionate undivided interest in the common elements without requiring specific reference thereto.

ARTICLE VII
CHARACTER AND USE

Each of the one hundred sixty-six (166) units is intended to be used as a private residence and shall be occupied by one family only.

The Common Elements shall be used for the benefit of the unit owners.

Age Restrictions

No persons under the age of eighteen (18) shall be permitted to permanently reside upon the premises or occupy any unit thereon, except during the seasonal use period of April 1st to October 31st.

The above age conditions shall be incorporated with the By-Laws of the Condominium with a provision that such conditions cannot be modified, changed or altered except only upon the vote of 100% of the unit owners.

ARTICLE VIII
DESCRIPTION OF COMMON ELEMENTS

Each unit shall include an undivided interest in the common elements (defined in Article IV as the "Condominium Parcel").

The common elements consist of all parts of the Condominium property other than the unit and are defined as follows:

The common elements for each unit owner shall include, without limitation, the multi-family buildings (except for the unit), the airspace above the said buildings, the foundations, and structural members, including bearing walls, columns, girders, beams and supports, roofs, balconies, garage, storage spaces, parking spaces, motors, pumps, tanks, equipment, apparatus, and all other central and appurtenant installations, including all pipes, ducts, shoots, conduits, wires, and cables used in connection therewith, (except the outlets thereof when located within the units), required to provide power, light, telephone, television, gas, water, heat services to or in the Condominium buildings, and shall also include the land described in Article III, which shall include the land upon which each multi-family building is located, lawns, trees, shrubs, and all landscaping, pavements, recreation areas, private drives (as shown in Exhibit "A") and all other community facilities, however, it shall not include dedicated streets, or any air conditioning equipment.

The common elements shall include easements for access, maintenance, repair, reconstruction or replacement of the foregoing structural members, equipment, installations and appurtenances, and for all other services necessary or convenient to the existence maintenance, safety and use of the property.

Portions of the common elements are hereby set aside and allocated for the restricted use of the respective units and shall be known as "Restricted Common Elements".

The restricted common elements are the one bedroom balconies. The unit or units having direct access to or being directly serviced by such restricted common elements shall be for the restricted use and enjoyment of the respective owners of said units.

Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Declarant to maintain during the period of construction and sale of said multi-family buildings, upon such portion of the premises as Declarant deems necessary, such facilities as in the sole opinion of Declarant may be reasonably required, convenient or

incidental to the construction and sale of said units, including but without limitation, a business office, storage area, construction yard, signs, model units and sales offices.

The proportionate percentage of undivided interest in the common elements (defined in Article IV as the "share") hereby established and which shall be conveyed with each respective unit is set forth in Article IX.

ARTICLE IX

NATURE OF COMMON ELEMENTS AND COMMON INTEREST

Section 1. Each unit has appurtenant to it a common proportionate undivided interest in the common elements (share). The amount of the percentage proportion of share appurtenant to each unit in the common elements is in equal percentages within separate classification of units. There are two classifications of units: one bedroom and two bedroom. The fraction will have a numerator of one (1) for each one bedroom, and one and one-half (1.5) for each two bedroom, and a denominator equal to the total number of units on the property as follows:

One bedroom - share will be $1/166$
Two bedroom - share will be $1.5/166$

Schedule 1 sets forth the percentage proportion or share appurtenant to each unit.

Section 2. The common interest appurtenant to each unit is declared to be permanent in character and cannot be altered without the consent of all unit owners affected, as expressed in an amended Declaration. Such common interest cannot be separated from the unit to which it appertains.

Section 3. The common elements shall not be divided, nor shall any right to partition any thereof exist, but nothing herein contained shall be deemed to prevent ownership of a unit as Tenants by the entirety, joint tenants or tenants in common.

Section 4. Each unit owner may use the common elements in accordance with the purposes for which they are intended without hindering the exercise of, or encroaching upon, the rights of other unit owners. This section shall be deemed to prevent some unit owners from enjoying substantially exclusive rights or advantages in a part or parts of the common elements (except for restricted common elements) by reason of their ownership of a particular unit or units.

Section 5. The unit owners shall have the irrevocable right, to be exercised by the Board of Managers, or its designee, to have access to each unit during reasonable hours or at anytime during emergency, for the purpose of inspecting and making repairs, replacements or improvements to the common elements and to the unit itself where the responsibility therefor is upon the Board, contained therein or elsewhere in the buildings, or to prevent damage to the common elements or other units, or to abate any violation of law, orders, rules, or regulations of any Governmental authorities having jurisdiction thereof, or to correct any condition which violates the provisions of any mortgage covering another unit.

Section 6. The Board of Managers shall, if any question arises, determine the purpose for which a common element is intended to be used. They shall have the right to promulgate rules and regulations limiting the use of the common elements to unit owners and their respective families, guests, invitees, and employees as well as to provide for the exclusive use by a unit owner and his guests, for special occasions, of the common elements. Such use may be conditioned, among other things, upon the payment by the unit owner seeking such use, an assessment as may be established by the Board of Managers for the purpose of defraying the costs thereof.

Section 7. The maintenance, repair, replacement, management, operation and use of the common elements, set forth in Article VIII shall be the responsibility of the Board of Managers, but nothing herein contained shall be construed so as to preclude the Board from delegating these duties to a manager or agent or to other persons, firms or other corporations.

Section 8. The expenses incurred or to be incurred for the maintenance, repair, replacement, management, operation and use of the common elements shall be collected from the unit owners and assessed as common charges by the Board of Managers.

Section 9. (a) The Board of Managers shall have the right to make, or cause to be made, such minor alterations and improvements to the common elements as in its opinion may be beneficial and necessary, or which is requested in writing by a unit owner or owners and the holders of first mortgages thereon. The Board may require the consent in writing before undertaking such work from such unit owners and the holders of first mortgages thereon, whose rights, in the sole opinion of the Board, may be prejudiced by such alterations or improvements.

(b) When, in the sole opinion of the Board, the alteration or improvement is general in character the costs therefor shall be assessed as common expenses.

(c) When, in the sole opinion of the Board, as evidenced by a vote of not less than two-thirds thereof, the alteration or improvement is exclusively or substantially exclusively for the benefit of one or more unit owners that requested it, the cost shall be assessed against such owners or owners in such proportion as the Board shall determine is fair and equitable. Nothing herein contained shall prevent the unit owners affected by such alteration or improvement from agreeing in writing, either before or after the assessment is made, to be assessed in different proportions.

Section 10. No unit owner shall do any work which would affect or alter any of the common elements or impair any easement or hereditament therein.

Section 11. While the property remains subject to this Declaration and the Condominium Act, no liens of any nature shall arise or be created against the common elements except with the unanimous consent in writing of all the unit owners and the holders of first liens thereon, except such liens as may arise or be created against the several units and their respective common interests under Section 339-1 of the Condominium Act. Every agreement for the performance of labor or the furnishing of materials to the common elements, whether oral or in writing, must provide that it is subject to the provisions of this Declaration and the Condominium Act and the right to file a mechanic's lien by reason of labor performed or materials furnished is waived.

Section 12. All common charges received or to be received by the Board of Managers and the right to receive such funds shall constitute trust funds for the purpose of paying the cost of labor and materials furnished to the common elements at the express request or with the consent of the manager, managing agent, or Board of Managers and the same shall be expended first for such purposes before expending any part of the same for any other purpose. Nothing herein contained shall require the Board of Managers to keep such charges in a separate bank account and no violation of said trust shall arise by reason of the comingling of the funds held by the Board of Managers in one bank account.

Section 13. Every unit owner shall comply strictly with the By-Laws, rules, regulations, resolutions and decisions adopted pursuant thereto in relation to the units or the common elements. Failure to comply with any of the same shall be grounds for an action to recover sums due, for damages, or injunctive relief or any or all of them. Such action may be maintained by the Board of Managers on its own behalf or on behalf of the unit owners aggrieved. In any case of flagrant or repeated violation by a unit owner, he may be required by the Board of Managers to give sufficient surety or sureties for his future compliance with the By-Laws, rules, regulations, resolutions and decisions. Nothing herein contained shall prevent, in a proper case, any independent action by an aggrieved unit owner for such relief.

UNITS: THEIR MAINTENANCE AND REPAIR

Section 1. No unit owner shall do or cause to be done any work affecting his unit which would jeopardize the soundness or safety of the property, reduce the value thereof, or impair any easement or hereditament therein. The unit owner shall cause any work being performed on the unit, which in the sole opinion of the Board of Managers violates this section, to be immediately stopped, and he shall refrain from recommencing or continuing the same without the consent in writing of the Board. He shall not repair, alter, replace or move any of the common elements which are located within his unit without the prior consent in writing of the Board. He shall not repair, alter, replace or perform work of any kind on the exterior of the building or excavate an additional basement or cellar without, in every such case, first obtaining in writing the consent of the Board of Managers. He shall not alter or replace any walls except those non-bearing partition walls which are wholly within his unit.

Section 2. It shall be the responsibility of the Board of Managers to maintain, repair or replace:

(a) All portions of the unit which contribute to the support of the building, including main bearing walls, but excluding painting, wall papering, decorating or other work on the interior surfaces of walls, ceilings and floors within the unit.

(b) All portions of the unit which constitute a part of the exterior of the building, except air-conditioning components.

(c) All common elements within the unit.

(d) All incidental damage caused by work done by direction of the Board of Managers.

(e) In the performance of any labor or in the furnishing of any material to a unit, under the direction of the Board of Managers, no lien shall be established or give rise to the basis for filing a mechanic's lien against the unit owner except such work performed for emergency repair. Nothing herein contained shall prevent such mechanic's lien being filed against a unit owner who expressly consents and requests in writing that the work be done.

Section 3. It shall be the responsibility of the unit owner:

(a) To maintain, repair or replace at his own expense the heating unit and air-conditioning unit, if any, and all portions of the unit which may cause injury or damage to the other units or to the common elements except the portions thereof mentioned and described in Section 2 hereof.

(b) To paint, wall paper, decorate and maintain the interior surfaces of all walls, ceilings and floors within the unit.

(c) To perform his responsibilities in such a manner and at such reasonable hours so as not to disturb other unit owners residing in the building.

(d) To refrain from repairing, altering, replacing, painting or otherwise decorating or changing the appearance of any portion of the common elements without first obtaining the consent in writing of the Board of Managers and to refrain from repairing, altering, replacing, painting, decorating or changing any balcony, or other exterior appendages to the unit whether exclusively used by the unit owner or otherwise without obtaining the aforementioned consent.

(e) To promptly report to the Board of Managers or their agent all work that he intends to perform for repair of any kind, the responsibility for the remedying of which lies with the Board of Managers. Any consent by the Board of Managers to the performance of such work by the unit owner shall not constitute an assumption by the Board of Managers to pay therefor. Also, the failure of the Board of Managers to take action on such notice shall not be deemed a waiver by it of its rights and shall not constitute a consent by the Board or an assumption by it to pay for any work performed by the unit owner. Any consent given by the Board of Managers may set forth the terms of such consent and the unit owner shall be required to abide thereby.

Section 4. Nothing in this article contained shall be construed so as to impose a personal liability upon any of the members of the Board of Managers for the maintenance, repair or replacement of any unit or common element or give rise to a cause of action against them. The Board of Managers, as such, shall not be liable for damages of any kind except for willful misconduct or bad faith.

ARTICLE XI

UNITS: HOW CONSTITUTED AND DESCRIBED

Section 1. Every unit, together with its undivided common interest in the common elements, shall for all

purposes be, and it is hereby declared to be and to constitute a separate parcel of real property and the unit owner thereof shall be entitled to the exclusive ownership and possession of his unit subject only to the covenants, restrictions, easements, By-Laws, rules, regulations, resolutions and decisions adopted pursuant thereto as may be contained in the Condominium documents or as may from time to time be passed in accordance with this Declaration and the By-Laws.

Section 2. A unit shall be described in the Deed by unit designation as shown on Exhibit "A" hereto annexed or filed in the Chautauqua County Clerk's Office and shall recite that it is part of the premises described in Article III of this Declaration giving the liber and page and the date of recording this Declaration. It shall state the common interest appertaining thereto. It shall further recite that the conveyance is made together with the benefits, rights, (including exclusive use rights or restricted common elements), privileges stated in the Condominium documents and subject to all easements, covenants, restrictions, liens, charges, uses, By-Laws, rules, regulations, and resolutions and decisions in accordance therewith as set forth in the Condominium documents.

Section 3. Every conveyance or lien using the unit designation assigned to it as shown on Exhibit "A" hereto annexed, shall be deemed to include its proportionate undivided interest in the common elements, and shall include, without requiring specific reference thereto or enumerating them, all the appurtenances and easements in favor of the unit, and similarly be subject to all easements in favor of others.

Section 4. Any transfer of a unit shall include all appurtenances thereto whether or not specifically described.

ARTICLE XII

BOARD OF MANAGERS

Section 1. The Declarant does hereby declare that the affairs of the Condominium shall be governed and controlled under the By-Laws by a Board of Managers. There shall not be less than five nor more than nine members of the Board of Managers. The Board of Managers may be enlarged in multiples of two. At the first election of members of the Board of Managers, two members shall be elected to serve a term of one (1) year, and three members to serve a term of two (2) years. At the expiration of the initial term of office of each respective member of the Board of Managers, his successor shall be elected to serve for a term of two (2) years, as provided in the By-Laws.

Section 2. The Board of Managers shall have charge of and be responsible for and is authorized to manage the affairs of the condominium organization, the common elements and other assets held by it on behalf of the unit owners except as herein otherwise limited. It shall have all the powers, rights, duties and obligations wherever set forth in this Declaration or in the Condominium documents. It shall adopt and execute all measures and proceedings necessary to promote the interests of the Condominium. It shall fix charges, assessments, fees and rents. It shall hold all funds or other assets of the Condominium and administer them as trustees for the benefit of the unit owners. It shall keep accurate records and audit and collect bills. It shall contract for all loans, mortgages, leases and purchase or sale of units in the Condominium acquired by it or its designee on behalf of all of the unit owners, where applicable. It shall direct all expenditures, select, appoint, remove and establish the salaries of employees and fix the amount of bonds for officers and employees. It shall maintain the common elements and other portions of the buildings as herein specified, paying for services and supervising repairs and alterations. It shall pass upon the recommendations of all committees and adopt rules and regulations as in their judgment may be necessary for the management, control and orderly use of the common elements, and in general it shall manage the Condominium property as provided herein and in the By-Laws, but nothing herein shall prevent the Board of Managers from employing and designating such powers as it deems advisable to professional management.

Section 3. In order to limit the liability of the unit owners, the members of the Board of Managers, or its designee; any contract or other commitment made by the Board of Managers, or a designee in its behalf, shall state that it is made by the Board of Managers, its managing agent, manager or other designee as the case may be only as agent for the unit owners, and that the members of the Board of Managers, its managing agent, manager or other designee, shall have no personal liability or any contract or commitment (except as unit owners), and that the liability of any unit owner on any such contract or commitment shall be limited to such proportionate

share of the total liability as the common interest of each unit owner bears to the aggregate common interest of all unit owners. The Board shall have no liability to the unit owners for error of judgment or otherwise, except for willful misconduct or bad faith. It is discretionary with the Board whether its members shall be bonded for this purpose.

Section 4. True copies of the floor plans, this Declaration, the By-Laws, the rules and regulations, resolutions and decisions shall be kept on file in the office of the Board of Managers and shall be available for inspection at convenient hours of weekdays by persons having an interest therein.

Section 5. The Board of Managers, or a managing agent which it employs, as the case may be, shall keep detailed accurate records, in chronological order, of the receipts and disbursements arising from the operation of the property. It shall also keep an assessment roll as more fully set forth in Article XIII, Section 10, hereof. Such records and the vouchers authorizing the payments shall be available for examination by the unit owners at convenient hours of weekdays. A written report summarizing such receipts and disbursements shall be given by the Board to all unit owners at least once annually.

ARTICLE XIII

CHARGES, ASSESSMENTS AND PROFITS

Section 1. No unit owner may exempt himself from the liability for payment of his common charges and expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of his unit except as provided in Section 2 of this Article.

Section 2. Any unit owner, may convey his unit to the Board of Managers and from and after such conveyance he shall be exempt from the common charges thereafter accruing.

Section 3. The common expenses shall be charged by the Board of Managers to the unit owners, according to their respective common interest. The common profits of the property, after offsetting the common expenses and making due allowance for the retention of a reserve to cover future common expenses, shall be distributed among the unit owners in the same manner.

Section 4. Insurance shall be obtained upon the property and the cost thereof shall be borne and paid as common charges and as hereinafter more fully set forth in Article XVIII.

Section 5. Assessments against the unit owners shall be made and approved by the Board of Managers and shall be paid by the unit owners and each owner shall be liable for his share of the common charges, except as in this article provided.

Section 6. Assessments for common charges shall be made for the calendar year annually in advance on November 30th of the year preceding the year for which the assessments are made. Such annual assessments shall be due and payable in equal monthly installments on the 1st day of each and every month. The Board of Managers may review and reconsider the assessments made and may increase or decrease the same and such increase required for the proper management, maintenance and operation of the common elements, and the unit owners shall pay any such increase on the 1st day of the month following notice of the increase.

Section 7. Taxes, assessments, water rates, sewer rents, which may be levied against the Condominium property as a whole before separate assessments for each unit is made, as provided by Section 339-y of the Condominium Act, shall be paid by the Board of Managers and shall be included in the budget and paid by the unit owners as a common charge.

Section 8. All liens against the common elements of any nature including taxes and special assessments levied by governmental authority may be paid by the Board of Managers and shall be assessed by it against the unit or units in accordance with their respective interest or against all units, whichever in the judgment of the Board of Managers is appropriate.

Section 9. All other assessments, either for emergencies or otherwise, shall be made by the Board of Managers in accordance with the provisions of the Condominium Act and the Condominium documents and if the time of payment is not set forth therein, the same shall be determined by the Board of Managers.

Section 10. The assessments against all unit owners shall be set forth upon a roll of the units which shall be available in the office of the Board of Managers for inspection at all reasonable times during the weekdays by unit owners or their duly authorized representatives. Such roll shall indicate for each unit the name and address of the owner or owners, the assessments for all purposes and the amounts of all assessments paid and unpaid. A certificate made by the Board of Managers as to the status of a unit owner's assessment account shall limit the liability of any person for whom made

other than the unit owner. The Board of Managers, or its agent, shall issue to the first mortgagee upon its demand a certificate showing the status of the assessments due from the unit owner and shall also issue such certificates to such persons as a unit owner may request in writing.

Section 11. The owner of a unit and his grantees shall be jointly and severally liable for all unpaid assessments due and payable at the time of the conveyance but without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefor. A purchaser of a unit at a judicial sale shall be liable only for assessments prorated to the period after the date of such sale.

Section 12. If any assessment or common charge shall remain due and unpaid for more than 15 days, the Board of Managers is empowered to file or record a lien therefor and to enforce the same pursuant to Section 339-aa of the Condominium Act.

ARTICLE XIV

RESTRICTIONS

Section 1. The Declarant, and every unit owner by the acceptance of the Deed, and their heirs, successors and assigns, covenant that they will faithfully observe all of the terms, covenants and conditions wherever imposed in this Declaration.

Section 2. The covenant in Section 1 of this Article shall not constitute a guarantee of any kind by the Declarant to pay the common expenses and charges, or any other obligations, of the unit owners other than Declarant.

Section 3. Each unit owner, his heirs, successors and assigns, further covenants:

(a) He will not use, cause or permit the unit to be used other than as provided in this Declaration, nor will he use, cause or permit the unit to be subdivided, changed or altered without first having obtained the approval of the Board of Managers.

(b) That he will not use, permit or allow the unit or any part thereof to be used for any immoral, improper, offensive or unlawful purpose nor will he permit or allow any nuisance within the unit nor will he use, permit or allow the unit to be used in a manner which will be a source of annoyance to residents or which in any way interferes with the peaceful possession, enjoyment and proper use of the property by the other residents.

ARTICLE XV

DEFAULT ON AND FORECLOSURE OF LIENS ON UNITS

Section 1. Upon the happening of a default under the terms of a first mortgage which would permit the holder to declare the entire principal sum due, notice of the intention of the holder to do so shall be given to the Board of Managers but the failure to give such notice shall not prevent the holder from instituting a foreclosure action and joining the Board of Managers as a party defendant therein.

Section 2. The Board of Managers shall have the following rights, powers and privileges with respect to first mortgages in default:

(a) By and with the consent of the holder thereof, to remedy the defaults existing under the terms of the mortgage and to put the same in good standing. In the event the Board shall make the advances necessary to remedy the defaults, the Board shall be deemed to hold a junior participating interest in the obligation and mortgage for the sum of principal together with interest, costs, disbursements, counsel fees, insurance, taxes or other charges so advanced with the right to foreclose such junior participating interest against the defaulting unit owner for the benefit of the remaining unit owners. The holder of the mortgage shall in no event be required, or have the obligation to collect the junior interest so created on behalf of the Board.

(b) To acquire by assignment, either before or after institution of foreclosure action from the holder thereof, said mortgage in the name of the Board or in the name of their designated nominee with all the powers and rights of the holder against the defaulting unit owner including the right to foreclose the same for the benefit of the remaining unit owners.

(c) To accept from the defaulting unit owner a deed transferring the unit and its common interest and by and with the consent of the holder of the mortgage to remedy the defaults existing under the terms thereof for the benefit of the other unit owners.

(d) To continue any pending action or to institute an action to foreclose any mortgage taken by assignment under subdivision (b) hereof, or to take a deed in lieu of foreclosure of the mortgage. In no event shall a unit owner be relieved from liability already incurred for past due common expenses and charges nor be relieved from personal liability on the bond, note or other obligation

by reason of any conveyance made under subdivision (c) hereof or under this subdivision.

Section 3. The Board of Managers shall be a necessary party in every action brought to foreclose any mortgage or other lien affecting a unit. The Board of Managers shall be entitled to bid at any sale, whether the action be in its name or they be a defendant therein, and to purchase any unit at such sale for such amount as shall be approved by a majority of the Board taking into consideration the amount due the plaintiff, the costs and disbursements, and all other charges affecting the unit. The Board shall not, however, be limited in its bidding to such amount or total but may bid any higher sum that it finds necessary in order to protect the interests of the other unit owners.

ARTICLE XVI

COMPLIANCE AND DEFAULT

Each unit owner shall be governed by and shall comply with the terms of the Condominium documents, regulations, resolutions and decisions adopted pursuant thereto as they may be amended from time to time. A default shall entitle the Board of Managers or other unit owners to the following relief:

Section 1. Failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief or both maintainable by the Board of Managers on behalf of the unit owners, or in a proper case, by an aggrieved unit owner. In any case of flagrant or repeated violation by a unit owner, he may be required by the Board of Managers to give sufficient surety or sureties for his future compliance with the By-Laws, rules, resolutions and decisions.

Section 2. Each unit owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, to the extent that such expense is not met by the proceeds of insurance carried by the Board of Managers. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy, or abandonment of a unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

Section 3. In any proceeding arising because of any alleged default by a unit owner, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be determined by the Court.

Section 4. The failure of the Board of Managers or a unit owner to enforce any right, provision, covenant or condition which may be granted by the Condominium documents shall not constitute a waiver of the right of the Board of Managers or unit owner to enforce such right, provision, covenants or condition in the future.

Section 5. All rights, remedies and privileges granted to the Board of Managers, its designated agent, or a unit owner, pursuant to any terms, provisions, covenants, or conditions of the Condominium documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be granted to such party by the Condominium documents or at law or in equity.

ARTICLE XVII

AMENDMENT

Alteration in the common interest cannot be done except with the consent of all unit owners.

The Condominium documents may be amended in the following manner:

Section 1. Notice of the subject matter of the proposed amendment in reasonably detailed form shall be included in the notice of any meeting at which a proposed amendment is considered.

Section 2. A resolution adopting a proposed amendment may be proposed by either the Board of Managers or by the unit owners at a meeting called for this purpose, and after being proposed and approved by either of such bodies, must be approved by the other. Directors and unit owners not present at the meeting considering such amendment may express their approval in writing or by proxy. Such approvals must be by not less than seventy-five (75%) percent of the Managers and by seventy-five (75%) percent of the unit owners who in the aggregate own not less than seventy-five (75%) percent of the common interest.

Section 3. A copy of each amendment shall be certified by the Chairman, Vice Chairman, or Acting Chairman and the Secretary or Treasurer of the Board of Managers as having been duly adopted and shall be effective when recorded with the Recording Officers. Copies of the same shall be sent to each unit owner in the manner elsewhere provided for the giving of notices but the same shall not constitute a condition precedent to the effectiveness of such amendment.

ARTICLE XVIII

INSURANCE

Section 1. Except title insurance, builders risk insurance and any other insurance which may be furnished by the Declarant during construction, the Board of Managers shall obtain and maintain, to the extent available, insurance on both Condominium buildings and all other insurable improvements upon the land, including but not limited to, all of the units, and equipment initially installed therein by the Declarant, together with any service equipment and all other personal property as may be held and administered by the Board of Managers for the benefit of the unit owners covering the interest of the Condominium organization, the Board of Managers and all unit owners and their mortgagees as their interests may appear. The insurance shall be purchased from recognized insurance companies duly licensed to operate in the State of New York.

Section 2. The Board of Managers shall obtain master policies of insurance which shall provide that the loss thereunder shall be paid to the Board of Managers as Insurance Trustees under this Declaration. Under the said master policies memorandums of insurance shall be issued which indicate on their face that they are a part of such master policies of insurance covering each and every unit of the Condominium and its common elements. A memorandum of insurance with proper mortgagee endorsements shall be issued to the owner of each unit and to the mortgagee, if there be one. The memorandum of insurance shall show the relative amount of insurance covering the unit and the interest in the common elements of the Condominium property and shall provide that improvements to a unit or units which may be made by the unit owner or owners shall not affect the valuation for the purposes of this insurance of the buildings and other improvements upon the land. Such master insurance policies and memorandums shall contain provisions that the insurer waives its right to subrogation as to any claim against the Board of Managers, its agents and employees, unit owners, their respective servants, agents and guests, and of any defense based on the invalidity arising from the acts of the insured, and providing further that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual unit owners as hereinafter permitted. The original master policy of insurance shall be deposited

with the Board of Managers as Insurance Trustee and a memorandum thereof shall be deposited with any first mortgagee who may require same. The Board of Managers must acknowledge that the insurance policies and any proceeds thereof will be held in accordance with the terms hereof. The Board of Managers shall pay, for the benefit of the unit owners and each unit mortgagee, the premiums for the insurance hereinafter required to be carried at least ten (10) days prior to the expiration date of any such policies.

Section 3. The property shall be covered by:

(a) Casualty or physical damage insurance in an amount equal to the full replacement value of the Condominium buildings as determined annually by the Board of Managers with the assistance of the insurance company affording such coverage. Such coverage shall provide protection against the following:

1. Loss or damage by fire and other hazards covered by the standard extended coverage endorsement together with coverage for the payment of common expenses with respect to damaged units during the period of reconstruction.

2. Such other risks as from time to time customarily shall be covered with respect to buildings similar in construction, location and use as the Condominium buildings, including but not limited to, vandalism, malicious mischief, windstorm and water damage, boiler and machinery explosion or damage, plate glass damage, and such other insurance as the Board of Managers may determine. The policies providing such coverage shall provide that, notwithstanding any provisions thereof which give the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable without the approval of the Board of Managers or where in conflict with the terms of this Declaration, and shall further provide that the coverage thereof shall not be terminated for non-payment of premiums without thirty (30) days notice to all of the insured, including each unit mortgagee.

All policies of casualty or physical damage insurance shall provide that such policies may not be cancelled or substantially modified without at least ten (10) days prior written notice to all of the insured, including all mortgagees of the units.

(b) Public liability insurance in such amounts and in such forms as shall be required by the Board of Managers, including but not limiting the same to water damage, legal liability, and off-premises employee coverages.

(c) Workmen's compensation insurance to meet the requirements of the law.

(d) Fidelity insurance covering those employees of the Board of Managers and those agents and employees hired by the Board of Managers who handle Condominium funds, in amounts as determined by the Board of Managers.

Section 4. Each unit owner may obtain insurance at his own expense providing coverage upon his personal property and for his personal liability, but all such insurance shall contain the same waiver of subrogation as that referred to in the preceding Section "2" hereof. Each unit owner may obtain casualty insurance at his own expense upon his unit but such insurance shall provide that it shall be without contribution as against the casualty insurance purchased by the Board of Managers or shall be written by the same carrier. If a casualty loss is sustained and there is a reduction in the amount of the proceeds which would otherwise be payable on the insurance purchased by the Board of Managers pursuant to the preceding section due to proration of insurance purchased by the unit owner under this section, the unit owner agrees to assign the proceeds of this latter insurance, to the extent of the amount of such reduction, to the Board of Managers to be distributed as herein provided.

Section 5. Premiums upon insurance policies purchased by the Board of Managers shall be paid by it and charged as common expenses.

Section 6. All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Board of Managers as hereinabove set forth shall be paid to it. The Board of Managers shall act as the Insurance Trustee. In the event that the Board of Managers have not posted surety bonds for the faithful performance of their duties as such managers or if such bonds do not exceed the funds which will come into its hands, and there is a damage to a part or all of the Condominium property resulting in a loss, the Board of Managers shall obtain and post a bond for the faithful performance of its duties as Insurance Trustee in an amount equal to 125% of the loss before it shall be entitled to receive the proceeds of the insurance payable as a result of such loss. The sole duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein, and for the benefit of the unit owners and their respective mortgagees.

Section 7. Each unit owner shall be deemed to have delegated to the Board of Managers his right to adjust with the insurance companies all losses under policies purchased by the Board of Managers.

Section 8. In no event shall any distribution of proceeds be made by the Board of Managers directly to a unit owner where there is a mortgagee endorsement on the certificate of insurance. In such event any remittances shall be to the unit owner and his mortgagee jointly. This is a covenant for the benefit of any mortgagee of a unit and may be enforced by him.

ARTICLE XIX

RECONSTRUCTION OR REPAIR OF CASUALTY DAMAGE

The Board of Managers shall arrange for the repair and restoration of casualty damage including damage to units. The Board of Managers shall disburse the net proceeds of all insurance policies arising out of such casualty to the contractors engaged in the repair and restoration and if such proceeds are insufficient for the repair or restoration, it may assess all of the unit owners for any deficit as a part of the common expenses as more fully set forth in the Declaration. However, if three-fourths or more of the Condominium property is destroyed or substantially damaged, and 75% or more of the unit owners do not duly and promptly resolve to proceed with the repair or restoration, the property will be subject to an action for partition at the suit of any unit owner or lienor, as if owned in common, in which event the net proceeds of the sale, together with the net proceeds of the insurance policies, shall be divided among all of the unit owners in proportion to their respective interests in the Condominium property, provided, however, that no payment shall be made to a unit owner until there has first been paid out of his share, all liens on his unit, in the order of the priority of such liens.

(a) Any such reconstruction or repair shall be substantially in accordance with the original plans and specifications.

(b) Immediately after a casualty causing damage to property for which the Board of Managers has the responsibility of maintenance and repair, the Board of Managers shall obtain reliable and detailed estimates of the cost to replace the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Managers desires.

(c) The proceeds of insurance collected on account of casualty, and the sums received by the Board of Managers from collections of assessments against unit owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:

1. If the amount of the estimated cost of reconstruction and repair is less than \$20,000.00, then the construction fund shall be disbursed in payment of such costs upon order of the Board of Managers, provided, however, that upon request of a mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereafter provided in the following paragraph 2.

2. If the estimated costs of reconstruction and repair of the building or other improvement is more than \$20,000.00, then the construction fund shall be disbursed in payment of such costs upon approval of a registered architect or licensed professional engineer qualified to practice in New York and employed by the Board of Managers to supervise such work, payment to be made from time to time as the work progresses. Such architect or engineer shall be required to furnish a certificate giving a brief description of the services and materials furnished by various contractors, subcontractors, material-men, the architect, or other persons who have rendered services or furnished materials in connection with the work, (a) that the sums requested by them in payment are justly due and owing and that said sums do not exceed the value of the services and materials furnished; (b) that there is no other outstanding indebtedness known to the said architect for the services and materials described; and (c) that the cost as estimated by said architect or engineer for the work remaining to be done subsequent to the date of such certificate, does not exceed the amount of the construction fund remaining after payment of the sum so requested.

(d) Encroachments upon or in favor of units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis of a proceeding or action by the unit owner upon whose property such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the building was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the building stands.

(e) In the event that there is a surplus of moneys in the construction fund after the reconstruction or repair of the casualty damage has been fully completed and all costs paid, such sums may be retained by the Board of Managers as a reserve or may be used in the maintenance

and operation of the Condominium property, or, in the discretion of the Board of Managers, it may be distributed to the unit owners and their mortgagees who are the beneficial owners of the fund.

ARTICLE XX

TERMINATION

Section 1. Declarant reserves the right to terminate this Declaration and to discharge same of record provided that no titles have been conveyed to independent owners. It is distinctly understood and agreed by all persons having any interest in this Condominium that a declaration by the Declarant herein to this effect shall be sufficient to discharge same of record.

Section 2. If the Condominium shall be terminated by at least eighty (80%) percent in number and in common interest of all the units, as may be specified by the By-Laws, then the property shall be subject to an action for partition by any unit owner or lienor as if owned in common, in which event the net proceeds of sale shall be divided among all the unit owners in proportion to their respective common interests, provided, however, that no payment shall be made to the unit owner until there has first been paid off out of his share of such net proceeds all liens on his unit. Such withdrawal of the property from the Condominium Act shall not bar its subsequent submission to the provisions thereof in accordance with the terms of the Condominium Act.

Section 3. The Condominium shall be terminated, if it is so determined in the manner elsewhere provided that the property shall not be reconstructed after casualty and the Condominium documents shall be revoked. The determination not to reconstruct after casualty shall be evidenced by a certificate of the Board of Managers signed by the Chairman, Vice Chairman, or acting Chairman and Secretary certifying as to the facts effecting the termination, which certificate shall become effective upon being recorded with the recording officer.

Section 4. After termination of the Condominium, the unit owners shall own the property as tenants in common in undivided shares and the holders of mortgages and liens against the unit or units formerly owned by such unit owners shall have mortgages and liens upon the respective undivided common interest of the unit owners. All funds held by the Board of Managers and insurance proceeds, if any, shall be and continue to be held for the unit

owners in proportion to the amount of their common interest. The costs incurred by the Board of Managers in connection with a termination shall be a common expense.

Section 5. Following termination, the property may be partitioned and sold upon the application of any unit owner. If the Board of Managers following a termination, by not less than a three-fourths vote, determines to accept an offer for the sale of the property, each unit owner shall be bound to execute such deeds and other documents reasonably required to effect such sale at such time and in such forms as the Board of Managers directs. In such event, any action for partition or division of the property shall be held in abeyance pending such sale, and upon the consummation thereof shall be discontinued by all parties thereto.

Section 6. The members of the Board of Managers, acting collectively as agent for all unit owners, shall continue to have such powers as in this article are granted, notwithstanding the fact that the Board of Managers, and/or the Condominium organization itself may be dissolved upon a termination.

ARTICLE XXI

COVENANTS WITH THE LAND

All provisions of the Condominium documents shall be construed to be covenants running with the land and with every part thereof and interest therein, including but not limited to every unit and the appurtenances thereto; and every unit owner and claimant of the property or any part thereof or interest therein, and his heirs, executors, administrators, successors and assigns shall be bound by all of the provisions of the Condominium documents.

ARTICLE XXII

LIENS AND SUITS

Section 1. All liens against a unit owner other than for mortgage taxes or special assessments shall be satisfied or otherwise removed within thirty (30) days from the date the lien attaches. All taxes and special assessments upon a unit shall be paid before becoming delinquent.

Section 2. A unit owner shall give notice to the Board of Managers of every lien upon his unit or any other part of the property other than for mortgages, taxes and special assessments within five (5) days after the attaching of the lien.

Section 3. Unit owners shall give notice to the Board of Managers of every suit or other proceeding which will or may effect the title to his unit or any other part of the property, such notice to be given within five (5) days after the unit owner received notice thereof.

Section 4. Failure to comply with this article concerning liens will not affect the validity of any judicial sale.

Section 5. The Board of Managers shall maintain a register of all mortgages.

ARTICLE XXIII

PROVISIONS PERTAINING TO DECLARANT

Notwithstanding any other provisions herein contained, for so long as the Declarant continues to own any of the units the following provisions shall be deemed to be in full force and effect, none of which shall be construed so as to relieve Declarant from any obligations of a unit owner to pay assessments as to each unit owned by it, in accordance with the Condominium documents.

Section 1. The Declarant reserves the unrestricted right to sell, assign, mortgage or lease any units which it continues to own after the recording or filing of the Condominium documents.

Section 2. For so long as the Declarant owns ten (10) or more units, but not later than August 31, 1984, a majority of the Board of Managers shall be selected by the Declarant. After August 31, 1984, for so long as the Declarant owns ten (10) or more units, one member of the Board of Managers may be selected by the Declarant. Such members as may be selected by the Declarant need not be residents in any of the said units.

Section 3. The Declarant specifically disclaims any intent to have made any warranty or representation in connection with the property or the Condominium documents except as specifically set forth herein or in the Offering Plan and no person shall rely upon any warranty or representation not so specifically made therein. The estimates of common charges are deemed accurate, but no warranty or guaranty is made nor intended, nor may one be relied upon.

ARTICLE XXIV

SERVICE OF PROCESS

Service of Process on the unit owners in any action with relation to the common elements shall be made upon Edgewater Recreation, Inc., which maintains its principal place of business at West Lake Road, Westfield, New York, until the closing of title to all units, and thereafter service of process shall be made upon the Board of Managers at Edgewater Recreation Condominiums, West Lake Road, Westfield, New York.

ARTICLE XXV

CAPTIONS

Captions used in the Condominium documents are inserted solely as a matter of convenience and shall not be relied upon or used in construing the effect of meaning of any of the text of the Condominium documents.

ARTICLE XXVI

GENDER, SINGULAR, PLURAL

Whenever the context so permits, the use of the plural shall include the singular, the plural and any gender shall be deemed to include all genders.

ARTICLE XXVII

SEVERABILITY

If any provision of this Declaration, or any section, sentence, clause, phrase or word, or the application thereof in any circumstances be judicially held in conflict with the laws of the State of New York, then the said laws shall be deemed controlling and the validity of the remainder of this Declaration and the application of any such provision, section, sentence, clause, phrase or word in other circumstances shall not be affected thereby.

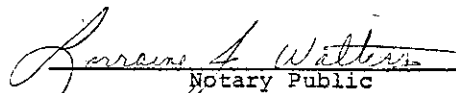
IN WITNESS WHEREOF, the Declarant has executed this Declaration this 10th day of December, 1981.

EDGEWATER RECREATION, INC.

By: Marita Naas

STATE OF NEW YORK)
COUNTY OF NIAGARA) SS:

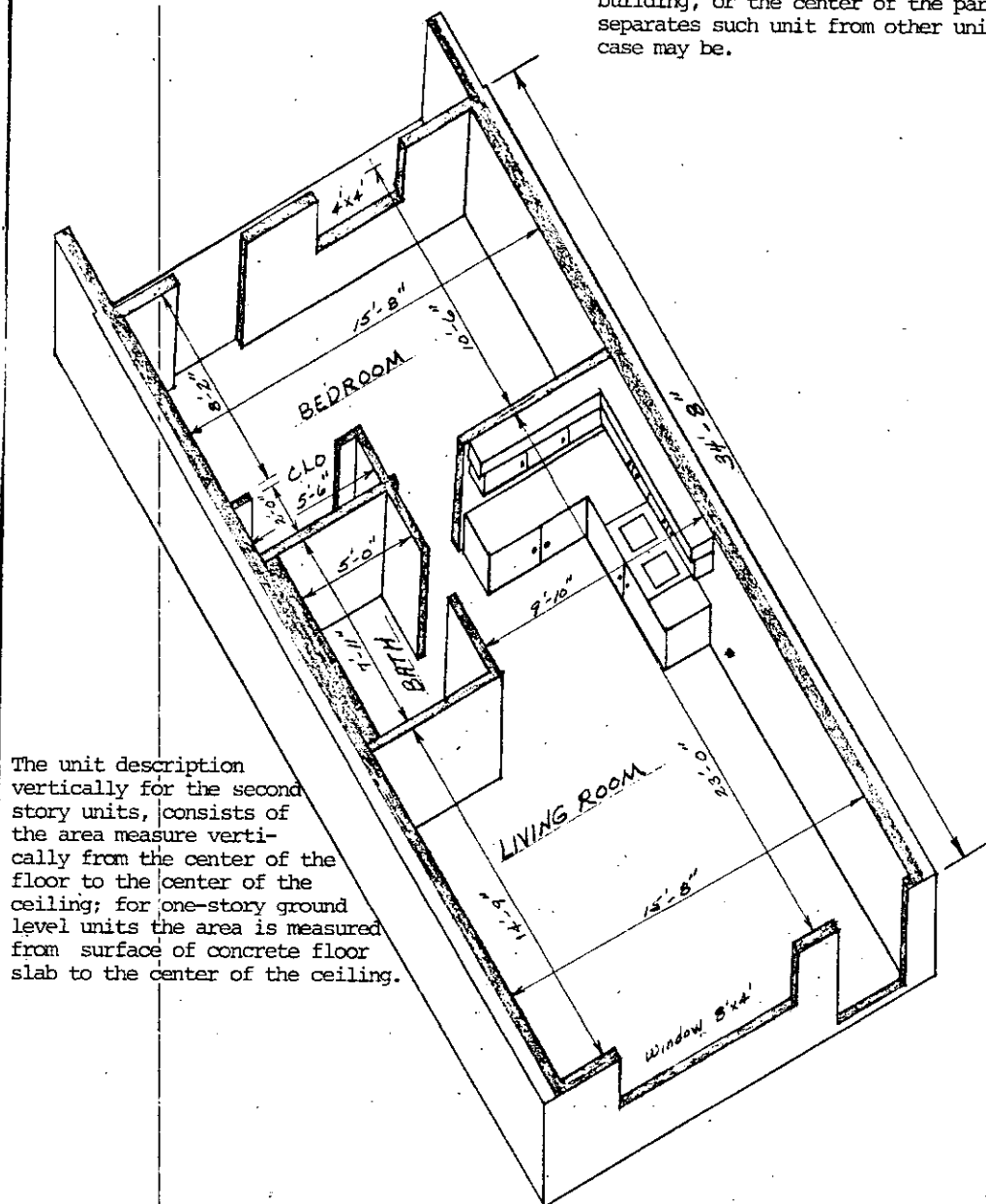
On this 10th day of DECEMBER, 1981, before me personally came MARITA HAAS to me personally known, who, being by me duly sworn did depose and say that she resides in EAST AMHERST, NEW YORK that she is the PRESIDENT of EDGEWATER RECREATION, INC., the corporation described in, and which executed the within instrument; that he knows the seal of said corporation; that the seal was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.


Notary Public

LORRAINE J. WALTERS
Notary Public, State of New York
Qualified in Niagara County
Commission Expires March 30, 1983

ONE BEDROOM UNIT

The unit description, horizontally, consists of the area measured horizontally from the center of the exterior walls of the building to the center of the opposite exterior wall of the building, or the center of the partition that separates such unit from other units, as the case may be.



The unit description vertically for the second story units, consists of the area measure vertically from the center of the floor to the center of the ceiling; for one-story ground level units the area is measured from surface of concrete floor slab to the center of the ceiling.

SCALE: 3/16" = 1'-0"

EXHIBIT B

ONE BEDROOM UNIT WITH BALCONY

The unit description, horizontally, consists of the area measured horizontally from the center of the exterior walls of the building to the center of the opposite exterior wall of the building or the center of the partition that separates such unit from other units as the case may be.

LIBER 15-18
PAGE 193

The unit description, vertically, for the second story units, consists of the area measured vertically from the center of the floor to the center of the ceiling; for one-story ground level units the area is measured from surface of concrete floor slab to the center of the ceiling.

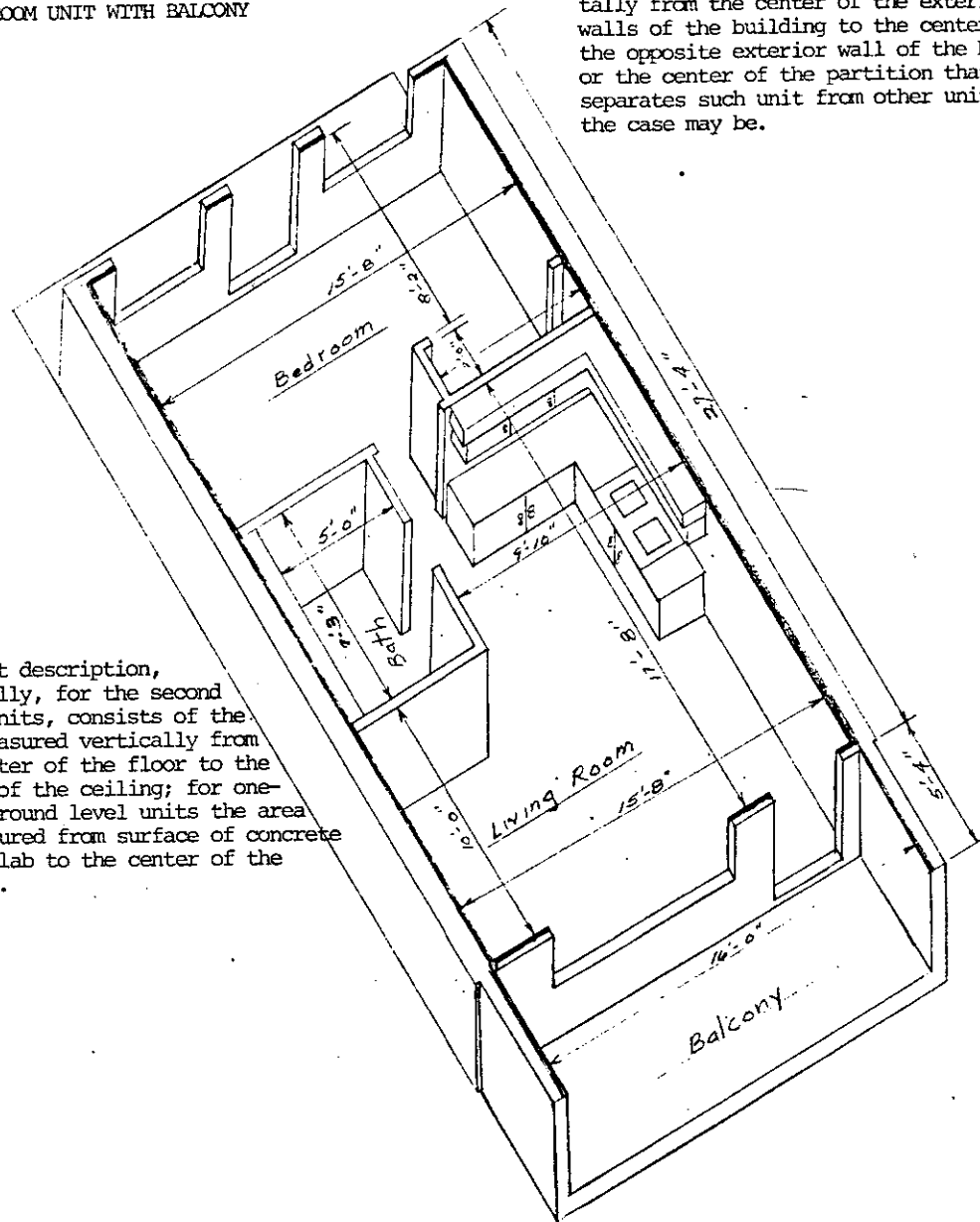
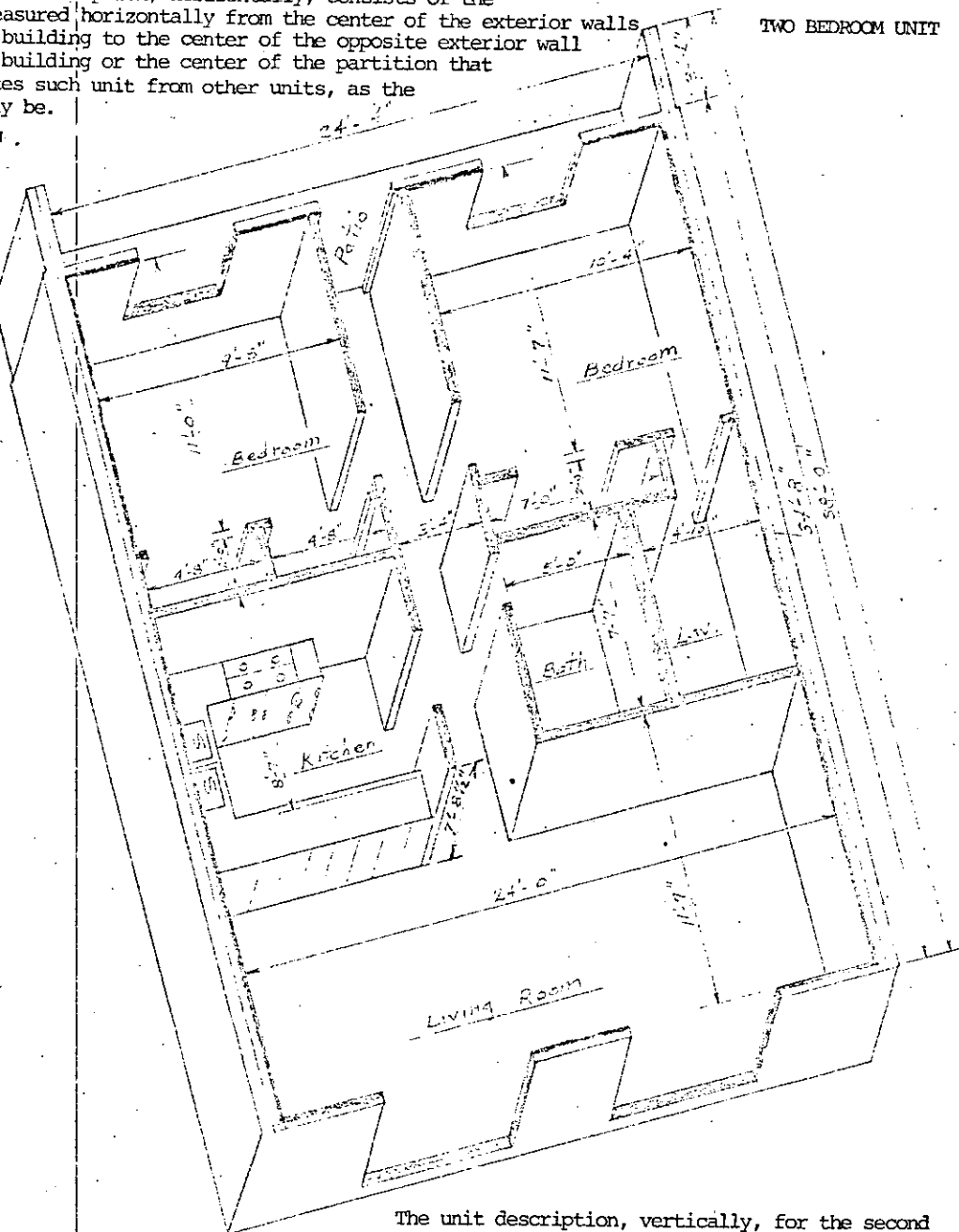


EXHIBIT B

The Unit description, horizontally, consists of the area measured horizontally from the center of the exterior walls of the building to the center of the opposite exterior wall of the building or the center of the partition that separates such unit from other units, as the case may be.

TWO BEDROOM UNIT

LIBER 1918 PAGE 194



The unit description, vertically, for the second story units, consists of the area measured vertically from the center of the ceiling; for one-story ground level units the area is measured from surface of concrete floor slab to the center of the ceiling.

LIBER 1918 PAGE 195

EXHIBIT B-1			
UNIT NO. AND TAX LOT IDENTIFICATION			
Building and Unit Number	Number of Bedrooms		App. Square Feet of Unit
	One	Two	
A-1	1		560*
A-2		2	840*
A-3		2	840*
A-4	1		560*
A-5	1		560*
A-6	1		560*
A-7		2	840*
A-8		2	840*
A-9	1		560*
A-10	1		560*
B-1	1		560*
B-2	1		560*
B-3	1		560*
B-4	1		560*
B-5	1		560*
B-6	1		560*
B-7	1		560*
B-8	1		560*
B-9	1		560*
B-10	1		560*
B-11	1		560*
B-12	1		560*
C-1	1		560*
C-2		2	840*
C-3		2	840*
C-4	1		560*
C-5	1		560*
C-6	1		560*
C-7		2	840*
C-8		2	840*

C-9	1	560*	23-1-5.2.C31
C-10	1	560*	23-1-5.2.C32
D-1	1	560*	23-1-5.2.C33
D-2		2	840*
D-3		2	840*
D-4	1	560*	23-1-5.2.C36
D-5	1	560*	23-1-5.2.C37
D-6	1	560*	23-1-5.2.C38
D-7		2	840*
D-8		2	840*
D-9	1	560*	23-1-5.2.C41
D-10	1	560*	23-1-5.2.C42
E-1	1	560*	23-1-5.2.C43
E-2		2	840*
E-3		2	840*
E-4	1	560*	23-1-5.2.C46
E-5	1	560*	23-1-5.2.C47
E-6	1	560*	23-1-5.2.C48
E-7		2	840*
E-8		2	840*
E-9	1	560*	23-1-5.2.C51
E-10	1	560*	23-1-5.2.C52
F-1	1	560*	23-1-5.2.C53
F-2		2	840*
F-3		2	840*
F-4	1	560*	23-1-5.2.C56
F-5	1	560*	23-1-5.2.C57
F-6	1	560*	23-1-5.2.C58
F-7		2	840*
F-8		2	840*

F-9	1		560*	23-1-5.2.C61
F-10	1		560*	23-1-5.2.C62
G-1	1		480+	23-1-5.2.C63
G-2	1		480+	23-1-5.2.C64
G-3	1		480+	23-1-5.2.C65
G-4	1		480+	23-1-5.2.C66
G-5	1		480+	23-1-5.2.C67
G-6	1		480+	23-1-5.2.C68
G-7	1		480+	23-1-5.2.C69
G-8	1		480+	23-1-5.2.C70
G-9	1		480+	23-1-5.2.C71
G-10	1		480+	23-1-5.2.C72
G-11	1		480+	23-1-5.2.C73
G-12	1		480+	23-1-5.2.C74
H-1	1		560 *	23-1-5.2.C75
H-2	1		560 *	23-1-5.2.C76
H-3		2	840 *	23-1-5.2.C77
H-4		2	840 *	23-1-5.2.C78
H-5	1		560 *	23-1-5.2.C79
H-6	1		560	23-1-5.2.C80
H-7	1		560	23-1-5.2.C81
H-8		2	840	23-1-5.2.C82
H-9		2	840	23-1-5.2.C83
H-10	1		560	23-1-5.2.C84
J-1	1		560*	23-1-5.2.C85
J-2		2	840*	23-1-5.2.C86
J-3		2	840*	23-1-5.2.C87
J-4	1		560*	23-1-5.2.C88
J-5	1		560*	23-1-5.2.C89
J-6	1		560*	23-1-5.2.C90

J-7		2	840*	23-1-5.2.C91
J-8		2	840*	23-1-5.2.C92
J-9	1		560*	23-1-5.2.C93
J-10	1		560*	23-1-5.2.C94
K-1	1		560*	23-1-5.2.C95
K-2		2	840*	23-1-5.2.C96
K-3		2	840*	23-1-5.2.C97
K-4	1		560*	23-1-5.2.C98
K-5	1		560*	23-1-5.2.C99
K-6	1		560*	23-1-5.2.C100
K-7		2	840*	23-1-5.2.C101
K-8		2	840*	23-1-5.2.C102
K-9	1		560*	23-1-5.2.C103
K-10	1		560*	23-1-5.2.C104
L-1	1		560*	23-1-5.2.C105
L-2		2	840*	23-1-5.2.C106
L-3		2	840*	23-1-5.2.C107
L-4	1		560*	23-1-5.2.C108
L-5	1		560*	23-1-5.2.C109
L-6	1		560*	23-1-5.2.C110
L-7		2	840*	23-1-5.2.C111
L-8		2	840*	23-1-5.2.C112
L-9	1		560*	23-1-5.2.C113
L-10	1		560*	23-1-5.2.C114
M-1	1		560*	23-1-5.2.C115
M-2		2	840*	23-1-5.2.C116
M-3		2	840*	23-1-5.2.C117
M-4	1		560*	23-1-5.2.C118
M-5	1		560*	23-1-5.2.C119
M-6	1		560*	23-1-5.2.C120

M-7		2	840*	23-1-5.2.C121
M-8		2	840*	23-1-5.2.C122
M-9	1		560*	23-1-5.2.C123
M-10	1		560*	23-1-5.2.C124
N-1	1		560*	23-1-5.2.C125
N-2		2	840*	23-1-5.2.C126
N-3		2	840*	23-1-5.2.C127
N-4	1		560*	23-1-5.2.C128
N-5	1		560*	23-1-5.2.C129
N-6	1		560*	23-1-5.2.C130
N-7		2	840*	23-1-5.2.C131
N-8		2	840*	23-1-5.2.C132
N-9	1		560*	23-1-5.2.C133
N-10	1		560*	23-1-5.2.C134
O-1	1		560*	23-1-5.2.C135
O-2	1		560*	23-1-5.2.C136
O-3	1		560*	23-1-5.2.C137
O-4	1		560*	23-1-5.2.C138
O-5	1		560*	23-1-5.2.C139
O-6	1		560*	23-1-5.2.C140
O-7	1		560*	23-1-5.2.C141
O-8	1		560*	23-1-5.2.C142
O-9	1		560*	23-1-5.2.C143
O-10	1		560*	23-1-5.2.C144
O-11	1		560*	23-1-5.2.C145
O-12	1		560*	23-1-5.2.C146
P-1	1		560*	23-1-5.2.C147
P-2		2	840*	23-1-5.2.C148
P-3		2	840*	23-1-5.2.C149

P-4	1	560*	23-1-5.2.C150
P-5	1	560*	23-1-5.2.C151
P-6	1	560*	23-1-5.2.C152
P-7	2	840*	23-1-5.2.C153
P-8	2	840*	23-1-5.2.C154
P-9	1	560*	23-1-5.2.C155
P-10	1	560*	23-1-5.2.C156
R-1	1	560*	23-1-5.2.C157
R-2	2	840*	23-1-5.2.C158
R-3	2	840*	23-1-5.2.C159
R-4	1	560*	23-1-5.2.C160
R-5	1	560*	23-1-5.2.C161
R-6	1	560*	23-1-5.2.C162
R-7	2	840*	23-1-5.2.C163
R-8	2	840*	23-1-5.2.C164
R-9	1	560*	23-1-5.2.C165
R-10	1	560*	23-1-5.2.C166

* There is an additional 40 (forty) square feet of balcony and/or patio which is a restricted common element.

* There is an additional 80 (eighty) square feet of balcony and / or patio which is a restricted common element.

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BY-LAWS
OF
EDGEWATER RECREATION CONDOMINIUM

ARTICLE I
NAME AND LOCATION

These are the By-Laws of the Edgewater Recreation Condominium hereinafter called the Condominium. The principal office of the Condominium shall be located on West Lake Road, Westfield, New York.

ARTICLE II
PURPOSES

This Condominium is formed under the provisions of Article 9-B of the Real Property Law of the State of New York, known as the Condominium Act, to serve as the means through which the unit owners may express their opinions, wishes, and take action with regard to the administration, management and operation of the Condominium and the Condominium property described in the Declaration.

ARTICLE III

Section 1. PLACE OF MEETINGS: The unit owners of the Condominium shall hold meetings at the principal office of the Condominium or at such place within the Town of Westfield, County of Chautaugua and State of New York as the

Board of Managers shall authorize.

Section 2. ANNUAL MEETING: The Annual Meeting of the unit owners of the Condominium shall be held at the principal office of the Condominium at 8:00 p.m. on the second Monday in July of each year, if not a legal holiday, or if that day be a legal holiday, then on the next business day following at the same hour, at which time the unit owners shall elect a Board of Managers of the Condominium, and may transact such other business as may properly come before the meeting. Within thirty (30) days after title to the last unit is conveyed by the Sponsor, but no later than August 31, 1984, the Sponsor shall call the first Annual Meeting of the unit owners.

Section 3. SPECIAL MEETINGS: Special Meetings of the unit owners may be called by the President, Vice-President, Secretary, or by a majority of the Board of Managers and must be called by such officers upon receipt of a written request from ten or more of the unit owners. Such written request shall state the purpose or purposes of the proposed meeting. Business transacted at a Special Meeting shall be confined to the purposes stated in the notice.

Section 4. FIXING RECORD DATE: For the purpose of determining the unit owners entitled to notice of any meeting of the Condominium, or any adjournment thereof, or for the purpose of any other action, the Board of Managers shall fix in advance, a date as the record date for such determination. Such date shall not be more than thirty nor less than ten days before the date of the

meeting. If no record date is fixed, then the date shall be determined in accordance with the provisions of law relating thereto.

Section 5. NOTICE OF MEETING: Notice of meetings of the unit owners of the Condominium shall be in writing. Notice of the meetings other than the annual meeting shall indicate and state that it is being issued by or at the direction of the person or persons calling the meeting. Such notice shall be mailed or delivered not less than five nor more than twenty days prior to the date of the meeting. Notice of all meetings at which disposition is to be made of assets, placing of liens, imposing assessments for major repair or improvement, granting of rights or easements in the Condominium property must also be given to the holders of the first mortgages on the units.

Section 6. WAIVER OF NOTICE: Notice of meetings need not be given to any unit owner who signs a waiver of notice either in person or by proxy whether before or after the meeting. The attendance of any unit owner at a meeting, in person or proxy, without protesting prior to the conclusion of the meeting the lack of proper notice of such meeting shall constitute a waiver of notice of the meeting by him.

Section 7. QUORUM OF UNIT OWNERS: A quorum of unit owners' meetings shall consist of persons holding thirty or more units, entitled to vote thereon. The subsequent joinder of a unit owner in the action taken at a meeting by signing

and concurring in the minutes thereof shall constitute the presence of such person for the purpose of determining a quorum. When a quorum is once present to organize the meeting, it cannot be broken by the subsequent withdrawal of a unit owner or owners. The unit owners present may adjourn the meeting despite the absence of a quorum.

Section 8. VOTING: Each unit owner shall be entitled to an equal vote with all other unit owners; i.e., 1/166. When more than one person holds an interest in any unit, the vote for such unit shall be exercised as the owners among themselves determine, but in no event shall more than one vote be cast with respect to any unit. Each unit owner shall be entitled to vote at all meetings of unit owners. Each vote shall be cast by the unit owner or by his proxy when filed with the Secretary of the Condominium. A unit which has been acquired by the Board of Managers in its own name or in the name of its agent, designee or nominee on behalf of all of the unit owners shall not be entitled to a vote so long as it continues to be so held.

Age Restrictions:

No persons under the age of eighteen (18) years shall be permitted to permanently reside upon the premises or occupy any unit thereon, except during the seasonal use period of April 1st to October 31st.

The above age conditions cannot be modified, changed or altered except only upon the vote of 100% of the unit owners.

Section 9. PROXIES: A vote may be cast in person or by proxy. To be valid, proxies must be duly signed and acknowledged by the unit owner and must be filed with the Secretary before the appointed time of the meeting. A proxy is valid only for the particular meeting designated therein. A proxy may be revoked by the unit owner by appearance in person at the meeting and there and then filing with the Secretary at that time notice of the revocation.

Section 10. ACTION OF THE UNIT OWNERS: A quorum being present, a vote of the majority of those present shall constitute the action of the unit owners and be binding upon all unit owners except as to those matters where the law and Condominium documents require a different majority.

Section 11. WRITTEN CONSENT OF UNIT OWNERS: APPROVAL OR DISAPPROVAL: Any action that may be taken by a vote may be taken without a meeting on written consent duly acknowledged setting forth the action so taken or to be taken of the unit owners holding in interest the majority of the shares entitled to vote thereon in accordance with Section 8 hereof. Approval or disapproval of a unit owner on any matter whether or not the subject of a meeting shall be by the person holding title to the unit on the books of the Condominium at the time of the execution of the instrument, if no meeting is being held, or by the person owning the unit on the record date, if such record date has been fixed and a meeting is to be held.

Section 12. ORDER OF BUSINESS: The order of business at the annual meeting of the unit owners of the Condominium shall be:

- (a) Election of chairman of the meeting.
- (b) Calling the roll and certifying the proxies.
- (c) Proof of notice of the meeting or certification as to waivers.
- (d) Reading and disposal of unapproved minutes.
- (e) Reports of the officers of the Condominium.
- (f) Reports of the Board of Managers of the Condominium.
- (g) Reports of Committees.
- (h) Selection and appointment of inspectors of election.

- (i) Election of Board of Managers of the Condominium.
- (j) Unfinished Business.
- (k) New business.
- (l) Adjournment.

Section 13. The order of business at all other meetings of the unit owners shall, as far as practical, conform to the order of business at the annual meeting insofar as the special purpose of the meeting will permit.

ARTICLE IV

MANAGERS

Section 1. BOARD: The Condominium shall be managed by a Board of Managers, each of whom shall be over the age of twenty-one years. They need not be unit owners.

Section 2. NUMBER AND TERM OF OFFICE: The Board of Managers shall consist of five persons. At the first election, two members shall be elected to serve a term of one year, three members to serve a term of two years. At all subsequent elections members of the Board shall be elected for a term of two years. The Board may be enlarged in multiples of two but in no event shall the Board consist of more than nine.

Section 3. NOMINATION AND ELECTION:

A. At least two months preceding the annual meeting of the Condominium, there shall be appointed by the President, a nominating committee of seven; two of whom shall be members of the Board whose term of office does not expire at the time of the ensuing annual election, if there be such members of the Board; two of whom shall be unit

owners holding no office in the Condominium; three of whom shall be the nominees of the Declarant while it holds ten or more units. The President shall have power to increase the nominating committee to include the nominee of the holder of any ten units or more in the Condominium. The nominating committee shall meet with speed and after considering the qualifications of persons and consulting the Declarant while it holds ten units or more, shall select a person or persons to be elected members of the Board of Managers at the forthcoming annual meeting of the Condominium. No member of the nominating committee shall be eligible for any nomination by said committee at such election. Such committee shall report its nominees by notice sent by mail to the unit owners at least one month prior to the date of the annual meeting. The names of the nominees shall be either typed or printed upon a ballot as candidates for the Board.

B. Any ten unit owners in good standing, or the owner of ten or more units, may nominate candidates to the Board of Managers by presenting such nominations in writing, signed by them, to the chairman of the nominating committee or to the secretary of the Condominium and thereupon the names of such candidates shall also be typed or printed on the official ballot with a special note as to the rights of any of the nominators. Such petition shall be presented not less than two weeks before the annual meeting.

C. The officers and members of the Board of Managers appointed by the Declarant shall retain their office for

the term for which they were appointed until the first annual meeting of the unit owners after the adoption of these By-Laws.

D. Before balloting for an officer or manager, the President of the Condominium shall appoint three inspectors of election who shall collect, receive, canvass and report the votes cast at such election. The inspectors shall not be candidates.

E. A typed or printed ballot shall be prepared by the nominating committee and mailed to each unit owner at least five days before the annual meeting. Where there is more than one candidate for any one office such names shall be arranged in alphabetical order.

F. The candidates receiving a plurality (a number of votes cast that is greater than the number cast for any other candidate) of the votes cast for the office shall be declared elected. In the case of members of the Board of Managers, those receiving the greater number of votes out of the number to be elected shall be declared elected and in case of a tie vote as to the last place to be filled, a new ballot shall be cast in order to determine the last successful candidate excluding those with a smaller number of votes who shall be declared defeated.

G. No unit owner who has failed to pay his common expenses and charges and against whom a lien therefor is being prosecuted shall be eligible for election as an officer or as a member of the Board of Managers.

H. Members of the Board of Managers and the officers

of the Condominium shall be installed at the next meeting of the Board after their selection.

I. Managers to be elected to fill any vacancies due to death, resignation or removal shall serve for the remaining unexpired term of the manager they replace. Managers are elected otherwise to serve for two years.

J. If the number of managers shall have been increased they shall be elected at a special meeting called for that purpose in the manner prescribed therein.

K. For so long as the ownership of ten or more units remains in Edgewater Recreation, Inc., but not later than August 1, 1984, it may select a majority of the Board of Managers. After August 1, 1984 for so long as the ownership of ten or more units remains in Edgewater Recreational, Inc., it may select one member of the Board of Managers. Such members so selected need not be residents in any of the said units.

Section 4. REMOVAL AND RESIGNATIONS: A. For so long as the ownership of twenty or more units remains in Edgewater Recreation, Inc., it may be demand, and it shall be entitled to receive, the resignations of a member or members of the Board of Managers.

B. A manager may be removed for cause by vote or action taken by the Board of Managers or by the unit owners at a special meeting called for that purpose. A demand for the resignation of a member or members of the Board of Managers made pursuant to the provisions of Subdivision A hereof shall be deemed to be a demand for removal with cause.

C. Managers may not be removed without cause unless notice of the request for their removal and their resignation has been given to them and a special meeting has been called for that purpose.

D. A manager may resign at any time by giving written notice to the Board of Managers the President or the Secretary. Unless otherwise specified in the letter of resignation, the resignation shall take effect immediately upon receipt thereof by the Board of Managers or by the officers designated to receive the same and acceptance of the resignation shall not be necessary to make it effective. A resignation will not relieve the manager resigning from his liability by reason of malfeasance or negligence while in office.

Section 5. QUORUM: A majority of the Board of Managers shall constitute a quorum for the transaction of business or for any specific item of business. If at any meeting there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At an adjourned meeting any business which could have been transacted at the meeting originally called may be transacted without further notice. The acceptance by a manager in the action of a meeting, by signing and concurring in the minutes, thereof shall constitute the presence of such manager for the purpose of determining the presence of a quorum.

Section t. ACTION OF THE BOARD: A quorum being present, a vote of the majority of those present shall

constitute the action of the Board of Managers except as to those matters where the law and Condominium documents require a different majority.

Section 7. VACANCIES IN THE BOARD: Vacancies in the Board may be filled until the date of the next annual meeting of the unit owners by the remaining members of the Board where the period between such appointment and the date of annual meeting is three months or less. Where the period remaining before the date of the annual meeting is more than three months a special meeting of the unit owners is required to fill the vacancy. The Board of Managers shall not fill a vacancy in the Board unless such appointment is required by law or the Condominium documents to properly function as a Board.

Section 8. TIME AND PLACE OF BOARD MEETINGS: The Board of Managers shall meet regularly at least once a month on the second Monday of each month or on such other day as the Board may fix. It may hold its meetings at the office of the Condominium or at such other places within the Town of Westfield, County of Chuataugua, State of New York as it may determine. The annual meeting of the Board shall be held immediately following the annual meeting of the unit owners at the place where such annual meeting of the unit owners is held. A special meeting of the Board of Managers may be called by the President or Vice-President on two days notice given either in writing, in person, by telephone, or by wire to each manager. Such special meeting must be called

on the demand or request of two members of the Board.

Section 9. NOTICE OF MEETINGS AND WAIVERS: Regular meetings once established may thereafter be held without notice at the time and at the place agreed upon by the Board. If the time or the place of a regular meeting be changed by circumstances beyond the control of the Board notice of the change shall be given in the same manner as for a special meeting. Notice of a meeting need not be given to any manager who submits a waiver of notice, whether such waiver be before or after the meeting. Attendance at the meeting shall be deemed to be a waiver of notice thereof.

Section 10. PRESIDING OFFICER: The President, or in his absence the Vice President, or if both be absent, then a Chairman selected and chosen by the Board shall preside.

Section 11. FEES: The fees or other compensation, if any, of all officers of the Condominium and of the members of the Board shall be determined by the unit owners at a meeting.

Section 12. POWERS AND DUTIES OF THE BOARD: The Board shall have power and may exercise all of the powers granted to it under the Condominium documents. The Board of Managers shall exercise its powers and duties in accordance with the provisions of the Declaration and said Board shall have power:

A. To make, levy, and assess common charges against

the unit owners for the purpose set forth in the Declaration and to use the same in the exercise of its power and duties.

B. To maintain, repair, replace and operate the Condominium property and in case of casualty to reconstruct and re-establish the property and to make improvements therein.

C. To contract for the management of the property; to enforce by legal means all of the provisions of the Condominium documents, these By-Laws, the Rules and Regulations of the Condominium, the resolutions and decisions rendered in pursuance of the By-Laws.

D. To prevent loss or damage to the Condominium by paying taxes, assessments or water rents or other liens against any part of the Condominium common interest and to assess the same against the unit or units subject to such liens.

E. To fix and assess charges for use of recreation facilities for special occasions as provided in the Declaration.

F. To temporarily close public places in the Condominium when required for a special use.

G. To make or amend rules and regulations respecting the use and operation of the property but not inconsistent with the Declaration.

H. To pay the cost of all power, water, sewer, or other utility services rendered to the Condominium which cannot be separately billed to the unit owners.

I. To enforce the provisions of the Condominium documents by legal action if necessary and to employ legal, accounting, maintenance or other personnel for reasonable compensation to perform the service required for the proper administration of the Condominium.

J. To purchase in its own name or in the name of its agent, designee or nominee either at foreclosure sale or from a defaulting unit owner in lieu thereof and to hold, mortgage or lease any unit.

K. To accept a deed in its own name or in the name of its agent, designee or nominee from a unit owner who desires to relieve himself from the payment of future common charges.

L. To take possession of any abandoned unit to prevent damage to the other units or to the common elements.

M. To hire and discharge persons employed for the operation of the property on such terms and conditions as the Board in its sole discretion may deem advisable.

N. To do any and all things which prudent operation of the Condominium would require.

ARTICLE V

OFFICERS

Section 1. At the annual meeting of the Board of Managers of the Condominium there shall be elected, in the same manner as provided herein for the election of managers, a President, Secretary, Treasurer and such Vice Presidents to assist the President as may be required

but not exceeding three. These officers shall all serve for a term of one year, and they shall be members of the Board of Managers.

Section 2. PRESIDENT: Shall be the Chief Executive officer of the Condominium and he shall have all of the powers and duties usually vested in a President of the Condominium, including the power to appoint committees as he may, with the consent of the Board of Managers, deem appropriate. He shall exercise such other powers and duties as shall be prescribed by the Board. He shall see that all orders and resolutions of the Board shall be carried into effect. He may delegate some of his duties to Vice Presidents.

Section 3. VICE PRESIDENTS: The Vice Presidents shall perform all duties as shall be delegated to him by the President. He shall serve as chairman of the respective committees which the Board of Managers shall deem appropriate. If there is more than one Vice President, they shall exercise the powers and perform the duties of the President in his absence or disability in the order of their appointment.

Section 4. SECRETARY: The Secretary shall keep a record of all actions of the Board and all meetings of the unit owners. He shall attend to the giving of all notices to the unit owners and/or managers and shall supervise the services thereof.

He shall prepare and have available at each meeting of the unit owners a certified list in alphabetical order of the names of the unit owners and of their common interest and certify which of them are entitled to vote. He shall perform all other duties incident to the office of Secretary of the Condominium as may be required by the President or the Board of Managers.

Section 5. TREASURER: The Treasurer shall keep the financial records of the Condominium and shall keep books of account and shall have custody of all the common property of the Condominium including all funds, securities and evidences of indebtedness. He shall keep the assessment roll and the accounts of the unit owners. He shall perform all other duties incident to a Treasurer of a Condominium as prescribed by the Board. He shall deposit all monies and other valuables in the name of and to the credit of the Condominium as may be ordered and authorized by the Board and shall preserve proper vouchers for such disbursements. He shall render an annual report at the annual meeting of the unit owners. The Treasurer and the President shall, as prescribed by the Board, report on the operation of the Condominium property and the payment of common expenses and the termination and collection of the common charges.

Section 6. All employees as such of the Condominium

may be removed peremptorily by the Board. The officers may be removed in the same manner as a manager can be removed as provided in Section 4 of Article IV.

ARTICLE VI
FISCAL MANAGEMENT

Section 1. The provisions for fiscal management of the Condominium as set forth in the Declaration shall be supplemented as follows:

A. The assessment roll shall be maintained in a set of accounting books in which there shall be an account of each unit. Such account shall designate the name and address of the owner or owners, the amount of each assessment against the owner, the dates and amounts in which the assessment comes due, the amounts paid upon the account and the balance due on the assessments. In making up the assessment roll the unit is treated as such and no division shall be made because the unit is held by more than one person.

B. The Board of Managers shall adopt a budget for each calendar year which shall contain estimates of the cost of performing the various functions of the Condominium and shall include among its items:

1. Common expense budget:
 - a. Maintenance and operation of common elements, including landscaping.
 - b. Utility services.
 - c. Casualty insurance.
 - d. Liability insurance.

e. Administration.

f. Any other item which the Board finds necessary to include therein.

2. The proposed assessment against each unit owner.

Section 2. Copies of the proposed budget and proposed assessments shall be transmitted to each member on or before January 1st of the year for which the budget is made. If the budget is subsequently amended before the assessments are made, a copy of the amended budget shall be furnished each member concerned.

Section 3. The depository of the Condominium shall be such bank or banks as shall be designated from time to time by the Board of Managers. The monies of the Condominium shall be deposited therein. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the Board of Managers.

Section 4. An audit of the accounts of the Condominium shall be made annually by a public accountant and a copy of the report shall be furnished to each member not later than ninety days after the end of the year for which the report is made.

Section 5. FIDELITY BONDS: Bonds may be required by the Board of Managers from all officers and employees of the Condominium. The amounts of such bonds shall be determined by the Board. The premium on such bonds shall be paid by the Condominium.

ARTICLE VII

PARLIAMENTARY RULES

Roberts Rules of Order (latest edition) shall govern

the conduct of proceedings except where the Declaration or the laws of the State of New York require a different method of procedure.

ARTICLE VIII

AMENDMENTS

Section 1. Amendments to the By-Laws shall be proposed by either a majority of the Board of Managers or by ten unit owners of the Condominium. The proposed amendment must be reduced to writing and must be accompanied by the opinion of legal counsel as to whether the amendment is permitted under the Declaration and Article 9-B of the Real Property Law of the State of New York. It shall be included in the notice of any meeting at which action is to be taken thereon.

Section 2. A resolution adopting a proposed amendment may be proposed by a member of the Board of Managers or by a unit owner at a meeting called for this purpose, and after being proposed and approved by either of such bodies, must be approved by the other. Managers and unit owners not present at the meeting considering such amendment may express their approval in writing or by proxy. Such approvals must be by not less than sixty-six and two-thirds percent ($66 \frac{2}{3}\%$) of the Managers and by sixty-six and two-thirds percent ($66 \frac{2}{3}\%$) in number of all the unit owners who in the aggregate own not less than sixty-six and two-thirds percent ($66 \frac{2}{3}\%$) of the common interest.

Section 3. An amendment when adopted shall become

effective only after being recorded with the recording officer in the same place where the Condominium documents are recorded.

ARTICLE IX

MEMBERSHIP LIST

Section 1. Each unit owner shall have his name and address set forth on the membership list of the Condominium. Upon presentation of satisfactory proof of the change of ownership of the unit to the Secretary of the Condominium, the membership list shall be changed to set forth the new owner's name and address.

Section 2. In the determination of the record date for the purpose of voting, the ownership of the unit upon the membership list of the Condominium shall control.

Section 3. The Board shall have the power to close the membership list for ten days preceding any special or annual meeting of the unit holders.

ARTICLE X

FISCAL YEAR

The fiscal year shall begin on the 1st day of January in each year or as the Board of Managers shall establish at their first meeting. Once established the date of commencement of the fiscal year shall not be changed.

ARTICLE XI

EXECUTION OF INSTRUMENTS

All instruments of the Condominium shall be signed, executed and acknowledged under seal by such officer or officers as the Board of Managers shall designate.

ARTICLE VII

RULES AND REGULATIONS

The Rules and Regulations of the Condominium are intended to govern the details of the operation and the use of the common elements and the restrictions and requirements for the use and maintenance of the unit. They are designed to prevent unreasonable use of their respective units and the common elements by other unit owners. The Rules and Regulations may be amended from time to time by the Board of Managers.

The foregoing By-Laws are hereby declared to be the By-Laws of the Condominium until the first meeting of the Board.

The foregoing By-Laws have been duly adopted by the Board of Managers and these By-Laws were declared by said Board to be placed in operation at its first meeting held on the 10th day of December, 1981.

Terence J. Doherty
Secretary

Approved:

Martin Haas
Treasurer

State of New York
Chautauque County, ss.
Recorded 12-23 1981
at 2:22 P.M., in
Liber 1918 Page 224
at Page 155 and examined.
Donald E. Lee
Clerk

DEC 23 2 22 PM '81

RECORDED