

THE GARDENS

Common Interest Community No. 307

RULES AND REGULATIONS

The following Rules and Regulations are intended for the comfort, welfare and safety of the residents of and visitors to The Gardens and to maintain the appearance and reputation of The Gardens. They are in addition to any use restrictions contained in the Declaration. In the event of any conflict between Declaration and these Rules and Regulations, the Declaration shall control.

Consideration and courtesy to others plus your cooperation in maintaining an attractive home and site will help sustain the high standards and value of your home and The Gardens.

1. **[Residency Criteria]** All residents of The Gardens (including unit owners and tenants) shall be approved for residency. Adult persons who reside in a home must complete an application for residency. All persons who reside in the home, including children, must be identified in the application. A felony conviction or history of drug use or dealing, physical violence to persons or property, or other conduct or behavior which could adversely affect the health, safety or welfare of other residents or other persons are grounds for rejection.
2. **[Lot Maintenance]** It is the responsibility of the owner or resident to make sure that the lawn and lot are properly maintained and do not create a hazard to the community. Minimum maintenance shall include: (a) keeping the lawn free of weeds by using a commercial weed killer as often as necessary for proper control; (b) re-seeding the lawn as necessary to ensure a full stand of grass; (c) cutting the lawn as necessary to make sure

that it is less than 4" in height; and (d) keeping all landscaping and gardens once planted orderly, watered and free of weeds.

3. **[Outdoor Storage]** All lots used as the site of a home shall have an accessory building for the storage of garden/landscaping tools and recreational items, or an automobile garage having at least 64 square feet of additional storage space beyond the space required for the automobile. No outdoor storage shall be permitted.

4. **[Use Restrictions]**

- (a) No lot shall be used for any purpose which shall constitute a nuisance to others, including excessive noise;
- (b) No dwelling shall be occupied by more than 1 family.
- (c) No lot shall be used for any purpose which damages or interferes with the use of the Common Areas by others.

5. **[Moving Manufactured Homes]** When a manufactured home is moved into or out of The Gardens, the following items must be complied with:

- (a) The Association must be given 30 days advance notice of such move.
- (b) The moving company must provide the Association with a certificate of insurance showing liability insurance covering such moves in the minimum amount of \$500,000.00.
- (c) All scrap metal, boards, glass and other rubbish or refuse must be cleaned up and removed from the site and properly disposed of and the site shall be left in a safe and clean condition.

6. **[Renting Restrictions]**

- (a) Leases shall be for a minimum of 6 months;

- (b) All leases must be approved by the Board prior to execution by the unit owner;
and
- (c) All leases shall require that renters comply with the Rules and Regulations and all renters shall be provided with a copy of the same at the time that the lease is signed.

7. [Private Streets]

- (a) A speed limit of 10 miles per hour is established for all private streets within the Community.
- (b) Parking is prohibited on all private streets and shall be permitted only in driveways and designated areas.
- (c) Vehicle repair or washing on private streets within the Community is prohibited.

8. [Common Areas] The care, maintenance and repair of the Common Areas are the responsibility of the Board of Directors. No repairs, maintenance, replacement or modification of the Common Areas shall be performed or undertaken without the written approval of the Board of Directors.

9. [Clubhouse]

- (a) The Clubhouse is available for use by residents and their guests for a charge established by the Association. The Clubhouse enables residents to accommodate groups and guests outside the limited space in their Unit. Users of the Clubhouse shall accord the same respect for the Clubhouse and its furnishings that normally is extended in a home.

- (b) The Clubhouse is available for rent from 10:00 a.m. to 11:00 p.m. The person reserving the Clubhouse must be a resident and present during the scheduled function.
- (c) Reservations for the Clubhouse must be made by contacting the management office with information on the dates and time of the function. All reservations shall be on a first come first served basis. At least 48 hours prior to the scheduled date of the function, the rental or an agreed upon deposit must be paid along with the signing of a Clubhouse Use Agreement.
- (d) The Clubhouse shall be limited to no more than 30 persons at any given time.
- (e) Smoking will not be permitted in the Clubhouse.
- (f) Removal of equipment from the game room in the Clubhouse is not permitted.
- (g) Litter and refuse shall be placed in the containers that are provided. Each party reserving the Clubhouse shall be responsible for clean-up after the function.
- (h) Persons under the age of 14 must be accompanied by an adult when using the game room.

10. **[Alterations to Homes]** No home or dwelling shall be built, constructed, moved into The Gardens, altered or modified without the consent of the Architectural Control Committee in accordance with the provisions of the Declaration.

11. **[Pets]**

- (a) Each home shall have no more than one cat or one dog. This is a privilege and not a right and may be revoked by the Association in the event that any such cat or dog poses a safety threat or becomes a nuisance, The Association may revoke the privilege with respect to such cat or dog. Upon revocation of such privilege,

the resident shall immediately remove the cat or dog from The Gardens. Failure to do so may result in a fine.

- (b) All pets must be registered with the Association within 7 days of acquisition. All appropriate licenses and shots shall be obtained by the owner and must be presented to the Association at registration along with 3 photographs of the pet.
- (c) Any pets found running loose will be apprehended and turned over to the animal control authority. Feeding any animal, including stray cats, constitutes ownership.
- (d) Pets shall not be fed outdoors. Pet food shall be stored indoors.

12. [Conduct]

- (a) Disorderly conduct is prohibited and is grounds for removal from the Common Areas.
- (b) The use of drugs on the Common Areas is prohibited.
- (c) The use of alcohol on the Common Areas is prohibited, except that alcohol may be consumed by persons of legal drinking age in the Clubhouse.

- 13. [Enforcement]** Penalties for violations of these Rules and Regulations shall be as follows: (a) a written warning shall be give for a first offense, with 5 days to cure the violation; (b) for a second offense or the failure to correct a first offense within the designated time, the Board may levy a fine of \$25.00 against the offending party, which shall be immediately due and payable; and (c) for a third and subsequent offense, the Board may levy a fine of up to \$100.00 against the offending party, which shall be immediately due and payable. The Board may also seek injunctive relief in Court to restrain continued or threatened violations of the Rules and Regulations. The offending

party shall be responsible for the costs incurred by the Association in obtaining such injunctive relief, including reasonable attorney's fees. Each owner alleged to have violated one of the Rules and Regulations may request to be heard by the Board at its next meeting to contest a warning letter or fine.



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NP-OR

**ARTICLES OF INCORPORATION
OF
THE GARDENS OWNERS' ASSOCIATION INC.**

The undersigned, of full age, for the purpose of forming a non-profit corporation pursuant to the provisions of the Minnesota Non-profit Corporation Act, Minnesota Statutes, Chapter 317A, hereby adopts the following Articles of Incorporation.

ARTICLE I.

The name of this corporation shall be The Gardens Owners' Association Inc.

ARTICLE II.

This corporation is organized and shall be operated exclusively for the ownership, operation, maintenance and administration of the common areas of The Gardens Owners' Association Inc. pursuant to Minnesota Statutes, Chapter 515B. This corporation may receive and disburse funds or other property incident to or necessary for the accomplishment of its purposes and do any and all acts incidental to the transaction of the business of this corporation or expedient for the attainment of its purposes.

ARTICLE III.

No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to its members, directors, trustees, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth above in Article II.

ARTICLE IV.

For its purposes and not otherwise, this corporation shall have only such powers as are required by and are consistent with the foregoing purposes, including the power to acquire and receive funds and property of every kind and nature whatsoever, whether by purchase, conveyance, lease, gift, grant, bequest, legacy, devise, or otherwise, and to own, hold, expend, make gifts, grants, and contributions of, and to convey, transfer, and dispose of any funds and property and the income therefrom for the furtherance of the purposes of this corporation, and to lease, mortgage, encumber, and use the same, and such other powers which are consistent with its purposes and which are afforded to this corporation by the Minnesota Nonprofit Corporation Act, as it now exists or as it may be amended or supplemented in the future.

ARTICLE V.

This corporation shall not lend any of its assets to any officer or director of this corporation or guarantee to any other person the repayment of a loan made to an officer or director of this corporation.

ARTICLE VI.

The period of duration of this corporation's corporate existence shall be perpetual.

ARTICLE VII.

The registered office of this corporation shall be located at 4325 Garden Court SE, Rochester, Minnesota 55904.

ARTICLE VIII.

This corporation shall have a single class of members who shall have such voting rights and who shall be ascertained as prescribed in the By-Laws of this corporation.

ARTICLE IX.

The management and direction of the business of this corporation shall be vested in its Board of Directors. The number, terms of office, powers, authorities and duties of the directors of this corporation, the time and place of their meetings, and such other regulations with respect to them as are not inconsistent with the express provisions of these Articles of Incorporation shall be as specified from time to time in the By-Laws of this corporation. Any action may be taken by the Board of Directors by written action signed by the number of directors that would be required to take the same action at a meeting of the Board of Directors at which all directors were present; provided that all directors shall be notified of the text of the written action prior to the signing by any of the directors. All directors shall be notified immediately of the effective date of any such written action that is duly taken.

ARTICLE X.

The names, post office addresses, and initial terms of the members of the Board of Directors of this corporation are as follows:

<u>Name</u>	<u>Address</u>	<u>Term</u>
Thomas M. Hexum	1000 Rocky Creek Drive NE Rochester, Minnesota 55906	1 year

Lloyd P. Johnson

1431 20th Street SW
Rochester, Minnesota 55902

1 year

ARTICLE XI.

The name and post office address of the Incorporator are:

Name

Address

William J. Ryan

206 South Broadway, Suite 505
Rochester, Minnesota 55904

ARTICLE XII.

This corporation shall have no capital stock.

ARTICLE XIII.

The directors of this corporation shall not be personally liable for the debts or obligations of this corporation of any nature whatsoever, nor shall any of the property of the directors or officers be subject to the payment of the debts or obligations of this corporation to any extent whatsoever.

ARTICLE XIV.

These Articles of Incorporation may be amended from time to time in the manner provided by law.

ARTICLE XV.

This corporation may be dissolved in accordance with the laws of the State of Minnesota. Upon dissolution of this corporation any surplus property remaining after the payment of its debts shall be disposed of by transfer to one or more corporations, associations, institutions, trusts, or foundations organized and operated for one or more of the purposes of this corporation, or to the State of Minnesota or any political subdivision or agency thereof for exclusively public purposes, in such proportions as the Board of Directors of this corporation shall determine.

Notwithstanding any provision in these articles to the contrary, nothing herein shall be construed to affect the disposition of property and assets held by this corporation upon trust or other condition, or subject to an executory or special limitation, and such property, upon dissolution of this corporation, shall be transferred in accordance with the trust, condition or limitation imposed with respect to it.

ARTICLE XVI.

The corporation shall indemnify its directors, officers, employees, agents, and such other persons, for such expenses and liabilities, to the maximum extent permitted by the Minnesota Non-Profit Corporation Act as currently enacted, and to such greater extent as amendments to the Act may permit. No amendment or repeal of the Minnesota Non-Profit Corporation Act shall adversely affect the rights of any such director, officer, or other person existing at the time of such amendment or repeal. The corporation may advance expenses of litigation to the extent provided for in the Minnesota Non-Profit Corporation Act as now enacted or subsequently amended. The corporation may enter into agreements with persons acting for or on behalf of the corporation to indemnify such persons, for such expenses and liabilities, and to such extent, as permitted by the Minnesota Non-Profit Corporation Act as the corporation shall determine.

ARTICLE XVII.

All references to Chapter 317A of the Minnesota Statutes shall refer to that chapter as it now exists or as it may be amended or supplemented in the future and to any corresponding law relating to Minnesota non-profit corporations that may be adopted in the future.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of February, 2006.

William J. Ryan

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

FEB 10 2006 *LS*

Mary Hiffray
Secretary of State

**THE GARDENS
COMMON INTEREST COMMUNITY NO. 307
DISCLOSURE STATEMENT**

The following information is being disclosed to purchasers of units (lots) in The Gardens pursuant to Minnesota Statutes, Section 515B.4-102.

1. The name of the Common Interest Community is The Gardens, Common Interest Community No. 307.
2. The name and principal address of Declarant is The Gardens Manufactured Home Community LLC, 4325 Garden Court SE, Rochester, MN 55904.
3. The Common Interest Community is a planned community and consists of 129 units (lots).
4. The Common Interest Community is a planned community that includes 129 units (lots) upon which residential individual Dwellings will be located. Each Dwelling is or will be placed or constructed by the owner of that unit (lot). The type of construction will be manufactured homes or other forms of wood frame construction approved by the Board of the Association or an architectural committee appointed by the Board. The Common Interest Community involves the conversion of a manufactured home park. Existing Dwellings are owned individually and pre-existing. Units (lots) vacant at the time of the conversion will involve new construction or the placement of a manufactured home, which may be either new or pre-existing. The Common Elements include a "club house" or community building that pre-existed the conversion of the Common Interest Community that was previously occupied from time to time for its intended purposes. The Common Elements also include private streets, walking paths and overflow parking areas.
5. The only building which the Declarant has or will construct is the existing community building, the construction of which has been previously completed.
6. There are no expenses or services which are not reflected in the budget that Declarant pays for or provides that may become a common expense. The Declaration provides for a limited assessment program wherein Declarant is liable for only 25 percent of the assessments levied against units (lots) owned by Declarant, after the deduction of budgeted replacement reserves for such assessments.
7. An initial payment equal to 2 months' assessments is due from all unit purchasers at the time of closing to fund the working capital fund.
8. There are no liens, defects, or encumbrances that will continue to affect the title to a unit (lot) after the conveyance of that unit by Declarant.
9. There is no financing offered or arranged by Declarant.

10. Application has not been made for project approval from the Federal National Mortgage Association (FNMA) and the Federal Home Loan Mortgage Corporation (FHLMC).
11. The terms of the warranty extended by Declarant are those set forth in Minnesota Statutes, Sections 515B.4-112 through 515B.4-115, copies of which are attached to this Disclosure Statement, to the extent that the same may be applicable. There are no other warranties, express or implied.
12. Within 10 days after receipt of a Disclosure Statement, a purchaser may cancel any contract for the purchase of a unit from Declarant; provided, that the right to cancel terminates upon the purchaser's voluntary acceptance of a conveyance of the unit from Declarant. If a purchaser receives a Disclosure Statement more than 10 days before signing a purchase agreement, the purchaser cannot cancel the purchase agreement. If Declarant fails to deliver a Disclosure Statement which substantially complies with Minnesota Statutes, Chapter 515B to a purchaser to whom a unit is conveyed, Declarant shall be liable to such purchaser as provided in Minnesota Statutes, Section 515B.4-106(d).
13. To the best of Declarant's knowledge, after reasonable inquiry, there are no unsatisfied judgments or lawsuits to which the Association is a party, nor any lawsuits which are material to the Common Interest Community or any unit being purchased.
14. All earnest money paid or deposits made in connection with the purchase or reservation of Units from or with Declarant shall be deposited in an account controlled by Title Services, Inc. The earnest money shall be returned to the purchaser if the purchaser cancels the contract pursuant to Minnesota Statutes, Section 515B.4-106. The name and address of the broker is The Hexum Companies, 4325 Garden Court SE, Rochester, MN 55901.
15. The Association provides casualty insurance coverage on the common elements and general liability insurance for the benefit of the Association. Individual Dwellings are not covered by such insurance. Casualty insurance on the Dwellings and general liability insurance for the benefit of the owners are the responsibility of the owners.
16. There are no current or expected fees or charges, other than assessments for common expenses, to be paid by unit owners for the use of the common elements or any other improvements or facilities.
17. Not applicable. There are no improvements that Declarant is obligated to build that have not been built.
18. Not applicable.
19. The real estate taxes for the unit are not delinquent. Real estate taxes for Unit ____ due and payable in the year 2006 are \$141.18. (This represents a prorated portion of the taxes paid by the Declarant for 2006.)

20. Not applicable.
21. Not applicable.
22. Attached are copies of the Declaration, Articles of Incorporation and By-Laws of the Association.
23. Attached is a current balance sheet for the Association and a projected annual budget for the Association for the year 2006.

BY-LAWS
OF
THE GARDENS OWNERS' ASSOCIATION INC.

Article I NAME AND LOCATION

The name of this corporation is The Gardens Owners' Association Inc., hereinafter referred to as the "Association." The principal office of the Corporation shall be located at 4325 Garden Court Southeast, Rochester, Minnesota 55904, but meetings of members and directors may be held at such places within the State of Minnesota, County of Olmsted, as may be designated by the Board of Directors.

Article II DEFINITIONS

Section 1 "Association" shall mean and refer to The Gardens Owners' Association Inc., its successors and assigns.

Section 2 "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3 "Common Areas" shall mean all property owned by the Association for the common use and enjoyment of the Owners.

Section 4 "Lot" shall mean and refer to any plat of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 5 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, but excluding those having such interest merely as security for the performance of an obligation unless and until such security holder has acquired title pursuant to foreclosure proceedings or voluntary deed in lieu thereof.

Section 6 "Declarant" shall mean and refer to The Gardens Manufactured Home Community LLC, a Minnesota limited liability company, its successors and assigns.

Section 7 "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the office of the County Recorder in and for Olmsted County, Minnesota.

Section 8 "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

Article III MEETING OF MEMBERS

Section 1 Annual Meetings. The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of 1:30 o'clock, p.m. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2 Special Meetings. Special meetings of the members may be called at any time by the President or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the votes of the Class A membership.

Section 3 Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4 Quorum. The presence at the meeting of members entitled to cast, or of proxies to cast, fifty-one (51%) percent of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5 Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

Article IV BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE

Section 1 Number. The affairs of this Association shall be managed by a Board of not less than two (2) Directors nor more than four (4) Directors, who must be members of the Association or affiliated with Declarant. The number of Directors shall be determined by the members at each annual meeting.

Section 2 Term of Office. At the first annual meeting the members shall elect four (4) Directors for a term of one (1) year.

Section 3 Removal. Any director may be removed from the Board, with or without cast, by a majority vote of the members of the Association. In the event of death, resignation or removal of a Director, his/her successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his/her predecessor.

Section 4 Compensation. No Director shall receive compensation for any service he/she may render to the Association. However, any Director may be reimbursed for his/her actual expenses incurred in the performance of his/her duties.

Section 5 Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

Article V NOMINATION AND ELECTION OF DIRECTORS

Section 1 Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its sole discretion determine, but not less than the number of vacancies that are to be filled.

Section 2 Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Article VI MEETINGS OF DIRECTORS

Section 1 Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2 Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two Directors, after not less than three (3) days notice to each Director.

Section 3 Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Article VII POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1 Powers. The Board of Directors shall have power to:

- (a) adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;
- (b) suspend the voting rights of a member during any period of delinquency in payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing for a period not to exceed sixty (60) days for infraction of published rules and regulations;
- (c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;
- (d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and
- (e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

Section 2 Duties. It shall be the duty of the Board of Directors to:

- (a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A members who are entitled to vote;
- (b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

- (c) as more fully provided in the Declaration, to:
 - (i) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;
 - (ii) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and
 - (iii) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same.
- (d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (e) procure and maintain adequate liability and hazard insurance on property owned by the Association;
- (f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- (g) cause the Common Area to be maintained.

Article VIII OFFICERS AND THEIR DUTIES

Section 1 Enumeration of Offices. The officers of this Association shall be a President and Vice-President, who shall at all times be members of the Board of Directors, a Secretary and a Treasurer, and such other officers as the Board may from time to time by resolution create.

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

Section 3 Term. The officers of this Association shall be elected annually by the Board, and each shall hold office for one (1) year unless he/she shall sooner resign, or shall be removed, or otherwise is disqualified to serve.

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

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

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

Section 7 Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 6 of this Article.

Section 8 Duties. The duties of the officers are as follows:

- (a) **President.** The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall consign all checks and promissory notes.
- (b) **Vice-President.** The Vice-President shall act in the place and stead of the President in the event of his/her absence, inability or refusal to act.
- (c) **Secretary.** The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.
- (d) **Treasurer.** The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be represented to the membership at its regular annual meeting and deliver a copy of each to the members.

Article IX COMMITTEES

The Association shall appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

Article X BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation, and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable costs.

Article XI ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of nine (9%) per cent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his/her Lot.

Article XII CORPORATE SEAL

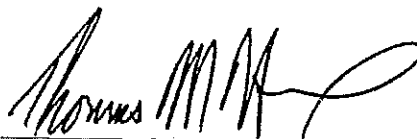
The Association shall have no seal.

Article XIII AMENDMENTS

Section 1 These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy.

Section 2 In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control. The laws of the State of Minnesota shall govern in any case of conflict or omission within these By-Laws, the Articles of Incorporation, or the Declaration.

IN WITNESS WHEREOF, the undersigned certifies that the foregoing By-Laws were adopted as the By-Laws of The Gardens Owners' Association Inc., a Minnesota non-profit corporation, at the first meeting of the Board of Directors on 2/9, 2006.



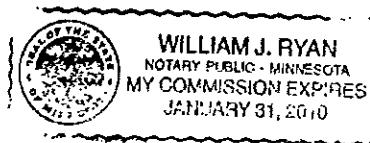
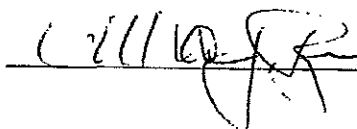
Thomas M. Hexum, Secretary

STATE OF MINNESOTA

ss.

COUNTY OF OLMSTED

The foregoing was acknowledged before me on 2/9, 2006, by Thomas M. Hexum, Secretary of The Gardens Owners' Association Inc., a Minnesota corporation.



This Instrument Was Drafted By:

Dunlap & Seeger, P.A.
206 South Broadway #505
Post Office Box 549
Rochester, Minnesota 55903-0549
Telephone: (507) 288-9111

THE GARDENS

ARCHITECTURAL STANDARDS

The following are the proposed Architectural Standards for new structures and alterations to existing homes in The Gardens, Common Interest Community No. 307, Rochester, Olmsted County, Minnesota:

1. All homes shall be in substantial uniformity of color, size, location, type and design in relation to existing homes and topography.
2. All homes shall be of comparable or better quality of materials as used in existing homes.
3. All homes shall afford ease of maintenance and repair.
4. All homes must have a minimum of a 25 year asphalt or fiberglass shingles. Any additions to a home must identically match the home in roof pitch, shingle type, color, texture and siding. Each home shall have a minimum 4/12 roof pitch.
5. All accessory elements (i.e., steps, decks, railings, patios, awnings, etc.) must be approved by the Architectural Control Committee.
6. No home may exceed two stories in height. Any home placed on a corner lot must have a minimum interior size of 1400 square feet.
7. No vertical skirting is allowed. Skirting systems may be comprised of masonry block, stone, concrete retaining wall construction, exterior grade simulated brick, stone, stucco or permanent siding.
8. All homes must have a minimum of 10 square feet of window glass on any elevation that faces the street.
9. All homes must have a garage or storage shed. The shed must have a minimum of 64 square feet of clear storage space, and a garage must have a minimum of 64 square feet of

clear storage space in addition to the space required for one automobile. All detached garages and sheds shall have a roof pitch, color, style, siding, etc. that identically matches the house.

10. No fences or walls shall be erected or placed on any site without written approval of the Architectural Control Committee.
11. No tarp or similar enclosures are allowed on homes, porches or decks.
12. No outside clothes lines are permitted.
13. No TV, ham radio, or similar antenna is allowed. The location of any satellite dish must be pre-approved.
14. All improvements shall be constructed so as to adequately protect the Community, the Association, and other owners and occupants from liability or liens arising out of the improvement.
15. All improvements shall be constructed, maintained, repaired and replaced in compliance with all applicable laws, ordinances, codes and regulations.



OFFICE OF COUNTY RECORDER
Olmsted County, Minnesota

I hereby certify that this document was filed in this office
on 5/25/2006 at 11:00:00 AM and was duly
recorded as document number A-1101246

W MARK KRUPSKI-Asst Co Recorder, by _____ Deputy

Well Certificate: ☐ Received ☐ Not Required

Abstr. - yes ☐ no ☐

Fees:

Received from/return to:

DUNLAP & SEEGER

FIRST FEDERAL BANK BLDG #400
ROCHESTER, MN 55904

COMMON INTEREST COMMUNITY NO. 307
Planned Community

THE GARDENS

DECLARATION

Same as
A-1101243

This Declaration is made in the County of Olmsted, State of Minnesota, on this 25th day of May, 2006, by The Gardens Manufactured Home Community LLC, a Minnesota limited liability company, (the "Declarant"), pursuant to the provisions of Minnesota Statutes, Chapter 515B, known as the Minnesota Common Interest Ownership Act (the "Act"), for the purpose of creating The Gardens as a planned community under the Act.

WHEREAS, Declarant is the owner of certain real property located in Olmsted County, Minnesota, legally described in Exhibit A attached hereto, and Declarant desires to submit said real property and all improvements thereon (collectively the "Property") to the Act as a planned community; and

WHEREAS, Declarant desires to establish on the Property a plan for a permanent residential community to be owned, occupied and operated for the use, health, safety and welfare of its Owners and Occupants, and for the purpose of preserving the value, the structural quality, and the original architectural character of the Property; and

WHEREAS, the Property is not subject to an ordinance referred to in Section 515B.1-106 of the Act, governing conversions to common interest ownership, and is not subject to a master association as defined in the Act.

THEREFORE, Declarant makes this Declaration and submits the Property to the Act as a planned community under the name "The Gardens," initially consisting of the Units referred to in Section 2, declaring that this Declaration shall constitute covenants to run with the Property, and that the Property shall be owned, used, occupied and conveyed subject to the covenants, restrictions, easements, charges and liens set forth herein, all of which shall be binding upon all

Persons owning or acquiring any right, title or interest therein, and their heirs, personal representatives, successors and assigns.

SECTION 1. DEFINITIONS

The following words when used in the Governing Documents shall have the following meanings (unless the context indicates otherwise):

1.1. "Act" shall mean the Minnesota Common Interest Ownership Act, Minnesota Statutes, Chapter 515B, as amended.

1.2. "Assessments" shall mean and refer to all assessments levied by the Association pursuant to Section 6 of this Declaration, including annual assessments, special assessments and limited allocation assessments.

1.3. "Association" shall mean The Gardens Owners' Association Inc., a nonprofit corporation which has been created pursuant to Chapter 317A of the laws of the state of Minnesota and Section 515B.3-101 of the Act, whose members consist of all Owners.

1.4. "Board" shall mean the Board of Directors of the Association as provided for in the By-Laws.

1.5. "By-Laws" shall mean the By-Laws governing the operation of the Association, as amended from time to time.

1.6. "Common Elements" shall mean all parts of the Property except the Units, including all improvements thereon, owned by the Association for the common benefit of the Owners and Occupants. The Common Elements are legally described in Exhibit B attached hereto.

1.7. "Common Expenses" shall mean and include all expenditures made or liabilities incurred by or on behalf of the Association and incident to its operation, including Assessments and items otherwise identified as Common Expenses in the Declaration or By-Laws.

1.8. "Dwelling" shall mean a part of a building consisting of one or more floors, designed and intended for occupancy as a single-family residence, and located within the boundaries of a Unit. The Dwelling includes any garage attached thereto or otherwise included within the boundaries of the Unit in which the Dwelling is located.

1.9. "Eligible Mortgagee" shall mean any Person owning a mortgage on any Unit, which mortgage is first in priority upon foreclosure to all other mortgages that encumber such Unit, and which has requested the Association, in writing, to notify it regarding any proposed action which requires approval by a specified percentage of Eligible Mortgagees.

1.10. "Governing Documents" shall mean this Declaration, and the Articles of Incorporation and By-Laws of the Association, as amended from time to time, all of which shall govern the use and operation of the Property.

1.11. "Limited Common Elements" shall mean a portion of the Common Elements allocated by the Declaration or by operation of Section 515B.2-102(d) or (f) of the Act for the exclusive use of one or more but fewer than all of the Units.

1.12. "Member" shall mean all persons who are members of the Association by virtue of being Owners as defined in this Declaration. The words "Owner" and "Member" may be used interchangeably in the Governing Documents.

1.13. "Occupant" shall mean any person or persons, other than an Owner, in possession of or residing in a Unit.

1.14. "Owner" shall mean a Person who owns a Unit, but excluding contract for deed vendors, mortgagees and other secured parties within the meaning of Section 515B.1-103(29) of the Act. The term "Owner" includes, without limitation, contract for deed vendees and holders of a life estate.

1.15. "Person" shall mean a natural individual, corporation, limited liability company, partnership, trustee, or other legal entity capable of holding title to real property.

1.16. "Plat" shall mean the recorded plat depicting the Property pursuant to the requirements of Section 515B.2-110(d) of the Act, and satisfying the requirements of Minnesota Statutes, Chapter 505, 508 or 508A, as applicable, including any amended or supplemental Plat recorded from time to time in accordance with the Act.

1.17. "Property" shall mean all of the real property submitted to this Declaration, now or in the future, including the Dwellings and all other structures and improvements located thereon. The Property is legally described in Exhibit A attached hereto.

1.18. "Rules and Regulations" shall mean the Rules and Regulations of the Association as approved from time to time pursuant to Section 5.6.

1.19. "Unit" shall mean any platted lot subject to this Declaration upon which a Dwelling is located or intended to be located, as described in Section 2.1 and shown on the Plat, including all improvements thereon, but excluding the Common Elements.

Any terms used in the Governing Documents, and defined in the Act and not in this Section, shall have the meaning set forth in the Act.

SECTION 2. DESCRIPTION OF UNITS, BOUNDARIES AND RELATED EASEMENTS

2.1. Units. There are one hundred twenty-nine (129) Units. All Units are restricted exclusively to residential use. Each Unit constitutes a separate parcel of real estate. No additional Units may be created by the subdivision or conversion of Units pursuant to Section 515B.2-112 of the Act. The Unit identifiers and locations of the Units are as shown on the Plat, which is incorporated herein by reference. The Unit identifier for a Unit shall be its lot and block numbers and the subdivision name.

2.2. Unit Boundaries. The front, rear and side boundaries of each Unit shall be the boundary lines of the platted lot upon which the Dwelling is located or intended to be located as shown on the Plat. The Units shall have no upper or lower boundaries. Subject to this Section 2 and Section 3, all spaces, walls, and other improvements within the boundaries of a Unit are a part of the Unit.

2.3. Access Easements. Each Unit shall be the beneficiary of a perpetual appurtenant easement for access to a public street or highway on or across those portions of the Common Elements paved for use as streets, as shown on the Plat, subject to any restrictions set forth in the Governing Documents or the Rules and Regulations.

2.4. Use and Enjoyment Easements. Each Unit shall be the beneficiary of perpetual appurtenant easements for use and enjoyment on and across the Common Elements, and for use and enjoyment of any Limited Common Elements allocated to the Unit, subject to any restrictions authorized by the Governing Documents.

2.5. Utility and Maintenance Easements. Each Unit shall be subject to and shall be the beneficiary of perpetual appurtenant easements for all services and utilities servicing the Units and the Common Elements, and for maintenance, repair and replacement as described in Section 9.

2.6. Encroachment Easements. Each Unit shall be subject to and shall be the beneficiary of perpetual appurtenant easements for encroachments as described in Section 12.

2.7. Declarant's Easements. Declarant shall have and be the beneficiary of easements for construction and sales activities as described in Section 16.

2.8. Recorded Easements. The Property shall be subject to such other easements as may be recorded against it or otherwise shown on the Plat.

2.9. Easements are Appurtenant. All easements and similar rights burdening or benefiting a Unit or any other part of the Property shall run with the land, and shall be permanent, subject only to termination in accordance with the Act or the terms of the easement. Any recorded easement benefiting or burdening the Property shall be construed in a manner consistent with, and not in conflict with, the easements created by this Declaration.

2.10. Impairment Prohibited. No person shall materially restrict or impair any easement benefiting or burdening the Property, subject to the Declaration and the right of the Association to establish and enforce reasonable Rules and Regulations governing the use of the Property.

2.11. Benefit of Easements. All easements benefiting a Unit shall benefit the Owners and Occupants of the Unit, and their families and guests. However, an Owner who has delegated the right to occupy the Unit to an Occupant or Occupants, whether by a lease or otherwise, does not have the use and other easements rights in the Property during such delegated occupancy, except as a guest of an Owner or Occupant or in connection with the inspection of the Unit or recovery of possession of the Unit from the Occupant pursuant to law.

SECTION 3. COMMON ELEMENTS, LIMITED COMMON ELEMENTS AND OTHER PROPERTY

3.1. Common Elements. The Common Elements and their characteristics are as follows:

- a. All of the Property not included within the Units constitutes Common Elements. The Common Elements include, but are not limited to, all areas and items listed in this Section 3, and those parts of the Property described in Exhibit B attached hereto or designated as Common Elements on the Plat or in the Act. The Common Elements are owned by the Association for the benefit of the Owners and Occupants.
- b. The Common Elements shall be subject to (i) certain easements as described in Section 2, Section 12, and Section 16; (ii) the rights of Owners and Occupants in Limited Common Elements appurtenant to their respective Units and (iii) the right of the Association to establish reasonable Rules and Regulations governing the use of the Property.
- c. Except as otherwise expressly provided in the Governing Documents, all maintenance, repair, replacement, management and operation of the Common Elements shall be the responsibility of the Association.
- d. Common Expenses for the maintenance, repair, replacement, management and operation of the Common Elements shall be assessed and collected from the Owners in accordance with Section 6.

3.2. Limited Common Elements. The Limited Common Elements are those parts of the Common Elements reserved for the exclusive use of the Owners and Occupants of the Units to which they are allocated. The rights to the use and enjoyment of the Limited Common Elements are automatically conveyed with the conveyance of such Units. The Limited Common Elements are described and allocated to the Units, as follows:

- a. Those items or areas designated as Limited Common Elements on the Plat or by the Act.
- b. Chutes, flues, ducts, pipes, wires, conduit or other utility installations, bearing walls, bearing columns, or any other components or fixtures lying partially within and partially outside the boundaries of a Unit, and serving only that Unit, are allocated to the Unit they serve. Any portion of such installations serving or affecting the function of more than one Unit or any portion of the Common Elements is a part of the Common Elements, but is not a Limited Common Element.
- c. Improvements, if any, such as decks, patios, porches, balconies, shutters, awnings, window boxes, doorsteps, stoops, perimeter doors and windows, constructed as part of the original construction to serve a single Unit, and replacements and modifications thereof authorized pursuant to Section 8,

if located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to that Unit.

- d. Heating, ventilating or air conditioning equipment serving only a certain Unit or Units, and located wholly or partially outside the Unit or Unit's boundaries, are allocated to the Unit or Units served by such equipment.

3.3. Annexation of Other Property. Other real property may be annexed to the common interest community as Units or Common Elements, or any combination thereof, and subjected to this Declaration, with the approval of (i) Owners (other than Declarant) of Units to which are allocated at least 67 percent of the votes in the Association and (ii) Declarant so long as Declarant owns any unsold Unit for sale.

SECTION 4. ASSOCIATION MEMBERSHIP; RIGHTS AND OBLIGATIONS

Membership in the Association, and the allocation to each Unit of a portion of the votes in the Association and a portion of the Common Expenses of the Association shall be governed by the following provisions:

4.1. Membership. Each Owner shall be a member of the Association by virtue of Unit ownership, and the membership shall be transferred with the conveyance of the Owner's interest in the Unit. An Owner's membership shall terminate when the Owner's ownership terminates. When more than one Person is an Owner of a Unit, all such Persons shall be members of the Association, but multiple ownership of a Unit shall not increase the voting rights allocated to such Unit nor authorize the division of the voting rights.

4.2. Voting and Common Expenses. Voting rights and Common Expense obligations are allocated equally among the Units, subject to Sections 6.4 and 6.7.

4.3. Appurtenant Rights and Obligations. The ownership of a Unit shall include the voting rights and Common Expense obligations described in Section 4.2. Said rights, obligations and interests, and the title to the Units, shall not be separated or conveyed separately, and any conveyance, encumbrance, judicial sale or other transfer of any allocated interest in a Unit, separate from the title to the Unit shall be void. The allocation of the rights, obligations and interests described in this Section may not be changed, except in accordance with the Governing Documents and the Act.

4.4. Authority to Vote. The Owner, or some natural person designated to act as proxy on behalf of the Owner, and who need not be an Owner, may cast the vote allocated to such Unit at meetings of the Association. However, if there are multiple Owners of a Unit, only the Owner or other Person designated pursuant to the provisions of the By-Laws may cast such vote. The voting rights of Owners are more fully described in the By-Laws.

SECTION 5. ADMINISTRATION

The administration and operation of the Association and the Property, including but not limited to, the acts required of the Association, shall be governed by the following provisions:

5.1. General. The operation and administration of the Association and the Property shall be governed by the Governing Documents, the Rules and Regulations, and the Act. The Association shall, subject to the rights of the Owners set forth in the Governing Documents and the Act, be responsible for the operation, management and control of the Common Elements. The Association shall have all powers described in the Governing Documents, the Act and the statute under which the Association is incorporated. All power and authority of the Association shall be vested in the Board, unless action or approval by the individual Owners is specifically required by the Governing Documents or the Act. All references to the Association shall mean the Association acting through the Board unless specifically stated to the contrary.

5.2. Operational Purposes. The Association shall operate and manage the Common Elements for the purposes of (i) administering and enforcing the covenants, restrictions, easements, charges and liens set forth in the Governing Documents and the Rules and Regulations, (ii) maintaining, repairing and replacing the Common Elements and (iii) preserving the value, and the architectural uniformity and character of the Property.

5.3. Binding Effect of Actions. All agreements and determinations made by the Association in accordance with the powers and voting rights established by the Governing Documents or the Act shall be binding upon all Owners and Occupants, and their lessees, guests, heirs, personal representatives, successors and assigns, and all secured parties as defined in the Act.

5.4. By-Laws. The Association shall have By-Laws. The By-Laws shall govern the operation and administration of the Association, and shall be binding on all Owners and Occupants.

5.5. Management. The Board may delegate to a manager or managing agent the management duties imposed upon the Association's officers and directors by the Governing Documents and the Act. However, such delegation shall not relieve the officers and directors of the ultimate responsibility for the performance of their duties as prescribed by the Governing Documents and by law.

5.6. Rules and Regulations. The Board shall have exclusive authority to approve and implement such reasonable Rules and Regulations as it deems necessary from time to time for the purpose of operating and administering the affairs of the Association and regulating the use of the Property; provided that the Rules and Regulations shall not be inconsistent with the Governing Documents or the Act. The inclusion in other parts of the Governing Documents of authority to approve Rules and Regulations shall be deemed to be in furtherance, and not in limitation, of the authority granted by this Section. New or amended Rules and Regulations shall be effective only after reasonable notice thereof has been given to the Owners.

5.7. Association Assets; Surplus Funds. All funds and real or personal property acquired by the Association shall be held and used for the benefit of the Owners for the purposes stated in the Governing Documents. Surplus funds remaining after payment of or provision for Common Expenses and reserves shall be credited against future assessments or added to reserves, as determined by the Board.

SECTION 6. ASSESSMENTS

6.1. General. Assessments shall be determined and assessed against the Units by the Board, in its discretion; subject to the requirements and procedures set forth in this Section 6, and the requirements of the By-Laws. Assessments shall include annual Assessments under Section 6.2, and may include Special Assessments under Section 6.3 and Limited Allocation Assessments under Section 6.4. Annual and Special Assessments shall be allocated among the Units equally, in accordance with the allocation formula set forth in Section 4.2. Limited Allocation Assessments under Section 6.4 shall be allocated to Units as set forth in that Section.

6.2. Annual Assessments. Annual Assessments shall be established and levied by the Board, subject to the limitations set forth hereafter. Each annual Assessment shall cover all of the anticipated Common Expenses of the Association for that year which are to be shared equally by all Units in accordance with the allocation set forth in Section 4.2. Annual Assessments shall be payable in equal monthly installments. Annual Assessments shall provide, among other things, for an adequate reserve fund for the maintenance, repair and replacement of the Common Elements and those parts of the Units for which the Association is responsible. Except for the variations authorized by Section 6.4, and except for premiums on insurance carried by the Association, the increase in the annual Assessment for any fiscal year shall not exceed the greater of (i) \$120.00, (ii) 5 percent of the previous year's annual Assessment or (iii) the percentage increase in the National Bureau of Labor Statistics Consumer Price Index for the Minnesota Twin City Metropolitan Area (or comparable index if not available) for the most recent available year, multiplied times the total annual Assessment for the Association's previous year; unless the increase is approved by the vote of 67 percent of those Owners (other than Declarant) voting, in person or by proxy, at a meeting called for that purpose, or voting by mail. Notice of the meeting shall be sent to all Owners not less than 21 days nor more than 30 days in advance of the meeting. The foregoing restriction shall apply only during the period of Declarant control of the Association, as described in Section 16.

6.3. Special Assessments. In addition to annual Assessments, and subject to the limitations set forth hereafter, the Board may levy in any Assessment year a special Assessment against all Units equally in accordance with the allocation formula set forth in Section 4.2. Special assessments shall be used for the purpose of defraying in whole or in part the cost of any unforeseen and unbudgeted Common Expense. Notwithstanding the foregoing, any special Assessment shall be subject to approval by the vote of a 67 percent of the Owners voting, in person or by proxy, at a meeting called for that purpose, or voting by mail. Notice of the meeting shall be sent to all Owners not less than 21 days nor more than 30 days in advance of the meeting. The foregoing restriction shall apply only during the period of Declarant control of the Association, as described in Section 16.

6.4. Limited Allocation Assessments. In addition to annual Assessments and special Assessments, the Board may, at its discretion, levy and allocate limited allocation Assessments among only certain Units in accordance with the following requirements and procedures:

- a. Any Assessment associated with the maintenance, repair, or replacement of a Limited Common Element may be assessed exclusively against the Unit or Units to which that Limited Common Element is assigned.

- b. Any Assessment or portion thereof benefiting fewer than all of the Units may be assessed exclusively against the Unit or Units benefited.
- c. The costs of insurance may be assessed in proportion to the square footage or actual cost per Unit, and the costs of utilities may be assessed in proportion to usage.
- d. Reasonable attorneys' fees and other costs incurred by the Association in connection with (i) the collection of Assessments and (ii) the enforcement of the Governing Documents, the Act, or the Rules and Regulations, against an Owner or Occupant or their guests, may be assessed against the Owner's Unit.
- e. Late charges, fines and interest may be assessed as provided in Section 13.
- f. Assessments levied under Section 515B.3-116(a) of the Act to pay a judgment against the Association may be levied only against the Units existing at the time the judgment was entered, in proportion to their Common Expense liabilities.
- g. If any damage to the Common Elements or another Unit is caused by the act or omission of any Owner or Occupant, or their guests, the Association may assess the costs of repairing the damage exclusively against the Owner's Unit to the extent not covered by insurance.
- h. If any Assessment or installment of an Assessment becomes more than 30 days past due, then the Association may, upon 10 days' written notice to the Owner, declare the entire amount of the Assessment immediately due and payable in full.
- i. If Common Expense liabilities are reallocated for any purpose authorized by the Act, Assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense liabilities.

Assessments levied under Sections 6.4 a. through g. may, at the Board's discretion, be assessed as a part of, or in addition to, the Assessments levied under Section 6.

6.5. Working Capital Fund. There shall be established a working capital fund to meet unforeseen expenditures or to purchase additional equipment or services during the Association's beginning years of operation. The Board shall include in each subsequent annual budget a reasonable amount of working capital, based upon the anticipated needs of the Association for the year in question. There shall be contributed on a one-time basis for each Unit sold an amount equal to two months installments of the estimated Common Expense Assessment for the Unit. The contribution shall be paid at the earlier of the time of closing of sale of the Unit or the time of termination of the period of Declarant control under Section 16.5. The contributions to this fund are in addition to the regular monthly installments of Assessments. The funds shall be deposited into a segregated Association account no later than the termination of the period of

Declarant control. Declarant may not use the funds to defray any of its expenses, reserve contributions or construction costs, or to make up any budget deficit while Declarant is in control of the Association. However, upon the closing of the sale of an unsold Unit, Declarant may reimburse itself from funds collected from the purchaser at the closing for any contributions made by Declarant to the working capital fund with respect to that Unit.

6.6. Liability of Owners for Assessments. The obligation of an Owner to pay Assessments shall commence at the later of (i) the time at which the Owner acquires title to the Unit, or (ii) the due date of the first Assessment levied by the Board, subject to the alternative Assessment program described in Section 6.7. The Owner at the time an Assessment is payable with respect to the Unit shall be personally liable for the share of the Common Expenses assessed against such Unit. Such liability shall be joint and several where there are multiple Owners of the Unit. The liability is absolute and unconditional. No Owner is exempt from liability for payment of Assessments by right of set-off, by waiver of use or enjoyment of any part of the Property, by absence from or abandonment of the Unit, by the waiver of any other rights, or by reason of any claim against the Association or its officers, directors or agents, or for their failure to fulfill any duties under the Governing Documents or the Act. The Association may invoke the charges, sanctions and remedies set forth in Section 13, in addition to any remedies provided elsewhere in the Governing Documents, the Rules and Regulations, or by law, for the purpose of enforcing its rights hereunder.

6.7. Declarant's Alternative Assessment Program. The following alternative Assessment program is established pursuant to Section 515B.3-115(a)(2) of the Act. Notwithstanding anything to the contrary in this Section 6, if a Common Expense Assessment has been levied, any unsold Unit owned by Declarant shall be assessed at the rate of 25 percent of the Assessments levied on other Units of the same type until a certificate of occupancy has been issued with respect to such Unit by the municipality in which the Unit is located. This reduced Assessment shall apply to each Unit owned by Declarant at the time that the Unit is created, and shall terminate with respect to each such Unit, upon the issuance of the certificate of occupancy for the Unit. Although this alternative Assessment program will not affect the allocated share of replacement reserves attributable to Units owned by Declarant, there are no assurances that there will be no effect on the level of services for items set forth in the Association's budget.

6.8. Assessment Lien. The Association has a lien on a Unit for any Assessment levied against that Unit from the time the Assessment becomes due. If an Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment thereof becomes due. Fees, charges, late charges, fines and interest charges imposed by the Association pursuant to Section 515B.3-102(a)(10), (11) and (12) of the Act are liens, and are enforceable as Assessments, under this Section 6. Recording of the Declaration constitutes record notice and perfection of any lien under this Section 6, and no further recordation of any notice of or claim for the lien is required. The release of the lien shall not release the Owner from personal liability unless agreed to in writing by the Association.

6.9. Foreclosure of Lien; Remedies. A lien for Assessments may be foreclosed against a Unit under the laws of the state of Minnesota (i) by action, or (ii) by advertisement in a like manner as a mortgage containing a power of sale. The Association, or its authorized

representative, shall have the power to bid in at the foreclosure sale and to acquire, hold, lease, mortgage and convey any Unit so acquired. The Owner and any other Person claiming an interest in the Unit, by the acceptance or assertion of any interest in the Unit, grants to the Association a power of sale and full authority to accomplish the foreclosure. The Association shall, in addition to its other remedies, have the right to pursue any other remedy at law or in equity against the Owner who fails to pay any Assessment or charge against the Unit.

6.10. Lien Priority; Foreclosure. A lien for Assessments is prior to all other liens and encumbrances on a Unit except (i) liens and encumbrances recorded before the Declaration, (ii) any first mortgage on the Unit, and (iii) liens for real estate taxes and other governmental Assessments or charges against the Unit. Notwithstanding the foregoing, if (1) a first mortgage on a Unit is foreclosed, (2) the first mortgage was recorded on or after the date of recording of this Declaration, and (3) no Owner redeems during the Owner's period of redemption provided by Minnesota Statutes, Chapters 580, 581, or 582, then the holder of the sheriff's certificate of sale from the foreclosure of the first mortgage shall take title to the Unit subject to unpaid Assessments for Common Expenses levied pursuant to Sections 515B.3-115(a), (h)(1) to (3), (i), and (l) of the Act which became due, without acceleration, during the six months immediately preceding the first day following the end of the Owner's period of redemption.

6.11. Voluntary Conveyances; Statement of Assessments. In a voluntary conveyance of a Unit, the buyer shall not be personally liable for any unpaid Assessments and other charges made by the Association against the seller or the seller's Unit prior to the time of conveyance to the buyer, unless expressly assumed by the buyer. However, the lien of such Assessments shall remain against the Unit until released. Any seller or buyer shall be entitled to a statement, in recordable form, from the Association setting forth the amount of the unpaid Assessments against the Unit, including all Assessments payable in the Association's current fiscal year, which statement shall be binding on the Association, seller and buyer.

SECTION 7. RESTRICTIONS ON USE OF PROPERTY

All Owners and Occupants, and all secured parties, by their acceptance or assertion of an interest in the Property, or by their occupancy of a Unit, covenant and agree that, in addition to any other restrictions which may be imposed by the Act or the Governing Documents, the occupancy, use, operation, alienation and conveyance of the Property shall be subject to the following restrictions:

7.1. General. The Property shall be owned, conveyed, encumbered, leased, used and occupied subject to the Governing Documents and the Act, as amended from time to time. All covenants, restrictions and obligations set forth in the Governing Documents are in furtherance of a plan for the Property, and shall run with the Property and be a burden and benefit to all Owners and Occupants and to any other Person acquiring or owning an interest in the Property, their heirs, personal representatives, successors and assigns.

7.2. Subdivision Prohibited. Except as permitted by the Act, no Unit nor any part of the Common Elements may be subdivided or partitioned without the prior written approval of all Owners and all secured parties holding first mortgages on the Units.

7.3. Residential Use. The Units shall be used by Owners and Occupants and their guests exclusively as private, single-family residential dwellings, and not for transient, hotel, commercial, business or other non-residential purposes, except as provided in Section 7.4. The number of occupants per Dwelling shall be restricted in accordance with the Building Officials and Code Administration (BOCA) occupancy restrictions. Any lease of a Unit (except for occupancy by guests with the consent of the Owner) for a period of less than seven days, or any occupancy which includes services customarily furnished to hotel guests, shall be presumed to be for transient purposes.

7.4. Business Use Restricted. No business, trade, occupation or profession of any kind, whether carried on for profit or otherwise, shall be conducted, maintained or permitted in any Unit or the Common Elements except:

- a. An Owner or Occupant residing in a Unit may maintain a home occupation in such Unit and handle matters relating to such home occupation by telecommunications or correspondence therefrom; provided, that such uses are incidental to the residential use; do not involve physical alteration of the Unit visible from the exterior; are in compliance with all governmental laws, ordinances and regulations; and do not involve any observable business activity such as signs, advertising displays, regular deliveries, or pedestrian or vehicular traffic to and from the Unit by customers or employees.
- b. The Association may maintain offices on the Property for management and related purposes.
- c. Declarant may maintain offices, sales facilities and other business facilities on the Property in connection with the exercise of its special declarant rights.

7.5. Leasing. Leasing of Units shall be allowed, subject to reasonable regulation by the Association, and subject to the following conditions: (i) that no Unit shall be leased for transient or hotel purposes, (ii) that no Unit may be subleased, (iii) that all leases shall be in writing, and (iv) that all leases shall provide that they are subject to the Governing Documents, the Rules and Regulations and the Act, and that any failure of the lessee to comply with the terms of such documents shall be a default under the lease. The Association may impose such reasonable Rules and Regulations as may be necessary to implement procedures for the leasing of Units, consistent with this Section.

7.6. Delegation of Use. An Owner may delegate, in accordance with the Governing Documents, the Owner's right of use and enjoyment of the Unit to persons living in the Unit pursuant to a legal right of possession; provided, that such persons shall be subject to the Governing Documents and the Rules and Regulations. If lessees, or other persons other than the Owner or the Owner's family, have been given the legal right to possess the Owner's Unit, then those persons shall have the right to use any common recreational facilities, parking, storage and other amenities on the Property in lieu of the Owner and the Owner's family.

7.7. Parking. Garages and parking areas on the Property shall be used only for parking of vehicles owned or leased by Owners and Occupants and their guests, and such other incidental uses as may be authorized in writing by the Association. Garages shall not be converted to other uses or used for storage or other purposes which would prevent the parking of at least one automobile in a garage. The use of garages, driveways and other parking areas on the Property, and the types of vehicles and personal property permitted thereon, shall be subject to regulation by the Association, including without limitation the right of the Association to tow illegally parked vehicles or to remove unauthorized personal property.

7.8. Animals. No animal may be bred, or kept or maintained for business or commercial purposes, anywhere on the Property. However, subject to the previous restriction, the Board shall have the exclusive authority to prohibit, or to allow and regulate, by Rules and Regulations, the keeping of animals on the Property. This authority may be exercised so as to permit or prohibit different types of animals, but those animals which are permitted (if any) shall be limited to common domestic house pets such as dogs, cats, fish, birds and the like. The word "animal" shall be construed in its broadest sense and shall include all living creatures except humans.

7.9. Quiet Enjoyment; Interference Prohibited. All Owners and Occupants and their guests shall have a right of quiet enjoyment in their respective Units. The Property shall be occupied and used in such a manner as will not cause a nuisance, nor unduly restrict, interfere with or impede the use and quiet enjoyment of the Property by other Owners and Occupants and their guests.

7.10. Compliance with Law. No use shall be made of the Property which would violate any then existing municipal codes or ordinances, or state or federal laws, nor shall any act or use be permitted which could cause waste to the Property, cause a material increase in insurance rates on the Property, or otherwise cause any unusual liability, health or safety risk, or expense, for the Association or any Owner or Occupant.

7.11. Improvements. Except for those made by Declarant in consideration of its initial sale of a Unit, no Improvements (as defined in Section 8) shall be made, or caused or allowed to be made, in any part of the Common Elements, or in any part of the Unit which affects the Common Elements or another Unit or which is visible from the exterior of the Unit, without the prior written authorization of the Board, or a committee appointed by it, as provided in Section 8.

7.12. Ponds; Wetlands and Trees. Ponds, marshes, wetland areas, vegetation and trees, whether located on the Units or the Common Elements, and whether natural or otherwise, shall be maintained in substantially the same condition as originally established, subject only to (i) changes authorized by the Association consistent with all statutes, requirements, rules and regulations imposed on such areas and items by governmental authorities having jurisdiction and (ii) the prior approval of any such governmental authorities, if required. No cutting, mowing, trimming, draining, dredging or other alteration of such areas and items shall be permitted, except as authorized by this Section 7.12, it being the intention that such areas and items remain and be maintained in substantially their condition as of the date of recording of this Declaration, and subject to natural changes.

7.13. Time Shares Prohibited. The time share form of ownership, or any comparable form of lease, occupancy rights or ownership which has the effect of dividing the ownership or occupancy of a Unit into separate time periods, is prohibited.

SECTION 8. ARCHITECTURAL STANDARDS

8.1. Restrictions on Alterations. One of the purposes of this Declaration is to ensure that those parts of the Units which are visible from the exterior be kept architecturally attractive and uniform in appearance. Therefore, the following restrictions and requirements shall apply to alterations on the Property:

- a. Except as expressly provided in this Section 8, no structure, building, addition, deck, patio, fence, wall, enclosure, window, exterior door, antenna or other type of sending or receiving apparatus, sign, display, decoration, color change, shrubbery, material topographical or landscaping change, nor any other exterior improvements to or alteration of any Dwelling or any other part of a Unit which affects the Common Elements or another Unit, or which is visible from the exterior of the Unit (collectively referred to as "Improvements"), shall be commenced, erected or maintained, unless and until the plans and specifications showing the nature, kind, shape, height, color, materials and locations of the alterations shall have been approved in writing by the Board or a committee appointed by it. Notwithstanding the foregoing, Declarant's written consent shall also be required for Improvements until the expiration of the Declarant control period described in Section 16.5.
- b. The Board may appoint, supervise and disestablish an architectural committee, and specifically delegate to it part or all of the functions which the Board exercises under this Section 8, in which case the references to the Board shall refer to the architectural committee where appropriate. The architectural committee shall be subject to the supervision of the Board.
- c. The Board shall establish the criteria for approval of Improvements, which shall include and require, at a minimum:
 - (1) substantial uniformity of color, size, location, type and design in relation to existing Dwellings and topography,
 - (2) comparable or better quality of materials as used in existing Dwellings,
 - (3) ease of maintenance and repair,
 - (4) adequate protection of the Property, the Association, Owners and Occupants from liability and liens arising out of the proposed Improvements, and
 - (5) compliance with governmental laws, codes and regulations.

The Board, or the appointed committee if so authorized by the Board, shall be the sole judge of whether the criteria are satisfied.

- d. Notwithstanding the foregoing, the installation of an antenna one meter or less in diameter for the purpose of receiving direct broadcast/satellite service or video programming services, or any antenna for receiving television broadcast signals, may be installed on a Dwelling, as permitted by applicable federal law; provided, that the antenna shall be installed so as to minimize its visibility and otherwise camouflage its appearance, and so as not to impose a greater maintenance burden on the Association or damage any Dwelling. The Board shall have authority to impose further, reasonable requirements consistent with law.

8.2. Review Procedures. The following procedures shall govern requests for Improvements under this Section:

- a. Detailed plans, specifications and related information regarding any proposed Improvement, in form and content acceptable to the Board, shall be submitted to the Board at least 60 days prior to the projected commencement of construction. No Improvements shall be commenced prior to approval.
- b. The Board shall give the Owner written notice of approval or minimize its visibility and otherwise camouflage its appearance. If the Board fails to approve or disapprove within 60 days after receipt of said plans and specifications and all other information requested by the Board, then approval shall be deemed to be granted; provided that the Improvements are done in accordance with the plans, specifications and related information which were submitted.
- c. If no request for approval is submitted, approval shall be deemed to be denied.

8.3. Remedies for Violations. The Association may undertake any measures, legal or administrative, to enforce compliance with this Section and shall be entitled to recover from the Owner causing or permitting the violation all attorneys' fees and costs of enforcement incurred by the Association, whether or not a legal action is started. Such attorneys' fees and costs shall be a lien against the Owner's Unit and a personal obligation of the Owner. In addition, the Association shall have the right to enter the Owner's Unit and to restore any part of the Dwelling or Unit to its prior condition if any Improvements were made in violation of this Section, and the cost of such restoration shall be a personal obligation of the Owner and a lien against the Owner's Unit.

8.4. Hold Harmless. The Owner who causes an Improvement to be made, regardless of whether the Improvement is approved by the Board, shall be solely responsible for the construction standards and specifications relating to the alteration, and the construction work. The Owner, and not the Association, is responsible for determining whether any Improvement is

in violation of any restrictions imposed by any governmental authority having jurisdiction over the Property. The Owner shall hold the Association harmless and indemnify the Association, and its officers and directors, from and against any expenses, claims, damages, losses or other liabilities, including without limitation attorneys' fees and costs of litigation, arising out of (i) any Improvement which violates any governmental laws, codes, ordinances or regulations, (ii) the adequacy of the specifications for construction of the Improvements, and (iii) the construction of the Improvements.

SECTION 9. MAINTENANCE

9.1. Maintenance by Association. The Association shall provide for all maintenance, repair or replacement (collectively referred to as "maintenance") of the Common Elements, including all improvements thereon.

9.2. Maintenance by Owner. All maintenance of the Dwellings and Units shall be the sole responsibility and expense of the Owners thereof. The Limited Common Elements allocated to a Unit shall be maintained by the Owner of that Unit. However, the Owners and Occupants shall have a duty to promptly notify the Association of defects in or damage to those parts of the Property which the Association is obligated to maintain. The Association may require that any exterior maintenance to be performed by the Owner be accomplished pursuant to specific uniform criteria established by the Association. The Association may also undertake any exterior maintenance which the responsible Owner fails to or improperly performs, and charge and assess the Unit for the cost thereof. Such cost shall be a personal obligation of the Owner and a lien against the Owner's Unit.

9.3. Damage Caused by Owner. Notwithstanding any provision to the contrary in this Section, if, in the judgment of the Association, the need for maintenance of any part of the Property is caused by the willful or negligent act or omission of an Owner or Occupant, or their guests, or by a condition in a Unit which the Owner or Occupant, has willfully or negligently allowed to exist, the Association may cause such damage or condition to be repaired or corrected (and enter the yard area of upon any Unit to do so), and the cost thereof may be charged and assessed against the Unit of the Owner responsible for the damage. Such cost shall be a personal obligation of the Owner and a lien against the Owner's Unit.

SECTION 10. INSURANCE

10.1. Required Coverage. The Association shall obtain and maintain, at a minimum, a master policy or policies of insurance in accordance with the insurance requirements set forth in the Act and the additional requirements set forth herein, issued by a reputable insurance company or companies authorized to do business in the state of Minnesota, as follows:

- a. Comprehensive public liability insurance covering the use, operation and maintenance of the Common Elements, with minimum limits, of \$1,000,000.00 per occurrence, against claims for death, bodily injury and property damage, and such other risks as are customarily covered by such policies for projects similar in construction, location and use to the Property. The policy shall contain a "severability of interest" endorsement

which shall preclude the insurer from denying the claim of an Owner or Occupant because of negligent acts of the Association or other Owners or Occupants. The policy shall include such additional endorsements, coverages and limits with respect to such hazards as may be required by the regulations of the FHA, VA or FNMA as a precondition to their insuring, purchasing or financing a mortgage on a Unit.

- b. Fidelity insurance coverage against dishonest acts on the part of directors, officers, managers, trustees, employees or other persons responsible for handling funds belonging to or administered by the Association if deemed to be advisable by the Board or required by the regulations of the FHA or FNMA as a precondition to the purchase or financing of a mortgage on a Unit. The fidelity bond or insurance shall name the Association as the named insured and shall, if required by the regulations of the FHA or FNMA as a precondition to their insuring, purchasing or financing of a mortgage on a Unit, be written in an amount equal to the greater of (i) the estimated maximum of Association funds, including reserves, in the custody of the Association or management agent at any given time while the bond is in force, or (ii) a sum equal to three months' aggregate Assessments on all Units plus reserves. An appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.
- c. Workers' Compensation insurance as required by law.
- d. Directors and officers liability insurance with such reasonable limits and coverages as the Board shall determine from time to time.
- e. Such other insurance as the Board may determine from time to time to be in the best interests of the Association and the Owners.

10.2. Premiums; Improvements; Deductibles. All insurance premiums shall be assessed and paid as an annual Assessments, and allocated among the Units as determined by the Board consistent with the Governing Documents. The insurance need not cover improvements and betterments to the Units installed by Owners, but if improvements and betterments are covered, any increased cost may be assessed against the Units affected. The Association may, in the case of a claim for damage to a Unit or Units, (i) pay the deductible amount as a Common Expense, (ii) assess the deductible amount against the Units affected in any reasonable manner, or (iii) require the Owners of the Units affected to pay the deductible amount directly.

10.3. Loss Payee; Insurance Trustee. All insurance coverage maintained by the Association shall be written in the name of, and the proceeds thereof shall be payable to, the Association (or a qualified insurance trustee selected by it) as trustee for the benefit of the Owners and secured parties, including Eligible Mortgagees, which suffer loss. The Association, or any insurance trustee selected by it, shall have exclusive authority to negotiate, settle and collect upon any claims or losses under any insurance policy maintained by the Association.

10.4. Required Policy Provisions. All policies of property insurance carried by the Association shall provide that:

- a. Each Owner and secured party is an insured Person under the policy with respect to liability arising out of the Owner's interest in the Common Elements or membership in the Association.
- b. The insurer waives its right to subrogation under the policy against any Owner or member of the Owner's household and against the Association and members of the Board.
- c. No act or omission by any Owner or secured party, unless acting within the scope of authority on behalf of the Association, shall void the policy or be a condition to recovery under the policy.
- d. If at the time of a loss under the policy there is other insurance in the name of an Owner covering the same property covered by the policy, the Association's policy is primary insurance.

10.5. Cancellation; Notice of Loss. All policies of comprehensive liability insurance maintained by the Association shall provide that the policies shall not be cancelled or substantially modified, for any reason, without at least 30 days' prior written notice to the Association, to the FHA, VA or FNMA (if applicable), all of the insureds and all Eligible Mortgagees.

10.6. Restoration in Lieu of Cash Settlement. All policies of property insurance maintained by the Association shall provide that, despite any provisions giving the insurer the right to elect to restore damage in lieu of a cash settlement, such option shall not be exercisable (i) without the prior written approval of the Association (or any Insurance Trustee) or (ii) when in conflict with provisions of any insurance trust agreement to which the Association may be a party, or any requirement of law.

10.7. No Contribution. All policies of insurance maintained by the Association shall be the primary insurance where there is other insurance in the name of the Owner covering the same property, and may not be brought into contribution with any insurance purchased by Owners or their Eligible Mortgagees.

10.8. Effect of Acts Not Within Association's Control. All policies of insurance maintained by the Association shall provide that the coverage shall not be voided by or conditioned upon (i) any act or omission of an Owner or Eligible Mortgagee, unless acting within the scope of authority on behalf of the Association, or (ii) any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which the Association has no control.

10.9. Owner's Personal Insurance. Each Owner may obtain additional personal insurance coverage at his or her own expense covering fire and other casualty to the Unit and the Dwelling located thereon, personal property or personal liability. All insurance policies

maintained by Owners shall provide that they are without contribution as against the insurance purchased by the Association.

SECTION 11. RECONSTRUCTION, CONDEMNATION AND EMINENT DOMAIN

11.1. Reconstruction. The obligations and procedures for the repair, reconstruction or disposition of the Property following damage or destruction thereof shall be governed by the Act. Any repair or reconstruction shall be substantially in accordance with the plans and specifications of the Property as initially constructed and subsequently improved. Notice of substantial damage or destruction shall be given as provided in Section 15.10.

11.2. Condemnation and Eminent Domain. In the event of a taking of any part of the Property by condemnation or eminent domain, the provisions of the Act shall govern; provided, (i) that notice shall be given as provided in Section 15.10, (ii) that the Association shall be the attorney-in-fact to represent the Owners in any related proceedings, negotiations, settlements or agreements and (iii) that any awards or proceeds shall be payable to the Association for the benefit of the Owners and the mortgagees of their Units. Eligible Mortgagees shall be entitled to priority for condemnation awards in accordance with the priorities established by the Act and the Governing Documents, as their interests may appear.

11.3. Termination and Liquidation. The termination of the common interest community, and the distribution of any proceeds therefrom, shall be governed by the Act. Any distribution of funds shall be based upon the value of the Units as determined by their relative value for property insurance purposes, and shall be made to Owners and their mortgage holders, as their interests may appear, as provided in the Act.

11.4. Notice. The Association shall give written notice of any condemnation proceedings or substantial destruction of the Property to the Eligible Mortgagees entitled to notice under Section 15.10.

11.5. Association's Authority. In all cases involving reconstruction, condemnation, eminent domain, termination or liquidation of the common interest community, the Association shall have authority to act on behalf of the Owners in all proceedings, negotiations and settlement of claims. All proceeds shall be payable to the Association to hold and distribute for the benefit of the Owners and their mortgage holders, as their interests may appear, in accordance with the Act.

SECTION 12. EASEMENTS

12.1. Easement for Maintenance, Repair, Replacement and Reconstruction. Each Unit, and the rights of the Owners and Occupants thereof, shall be subject to the rights of the Association to an exclusive, appurtenant easement on and over the Units for the purposes of construction, maintenance, repair, replacement, reconstruction and removal of the Dwellings and other improvements located within the Units, and utilities serving the Units, as may be reasonably necessary. Upon the use of any such easement for the construction, maintenance, repair, replacement, reconstruction or removal of a Dwelling, the Unit shall be restored to its prior condition.

12.2. Utility Easements. The Property shall be subject to non-exclusive, appurtenant easements in favor of all public utility companies and other utility providers for the installation, use, maintenance, repair and replacement of all utilities, such as natural gas, electricity, cable TV and other electronic communications, water, sewer, septic systems, wells, and similar services, and metering and control devices, which exist or are constructed as part of the development of the Property, or which are referred to in the Plat or otherwise described in this Declaration or any other duly recorded instrument. Each Unit, and the rights of the Owners and Occupants thereof, shall also be subject to a non-exclusive, appurtenant easement in favor of the other Units for all such utilities and services; provided, that the utilities and services shall be installed, used, maintained and repaired so as not to interfere with the use and quiet enjoyment of the Units by the Owners and Occupants, nor affect the structural or architectural integrity of the Units or Dwellings.

12.3. Emergency Access to Units. In case of emergency, all Units and Limited Common Elements are subject to an easement for access, without notice and at any time, by an officer or member of the Board, by the Association's management agents or by any public safety personnel. The Board may require that an Owner or Occupant leave keys to the Unit with another Owner of his or her choice and to advise the manager or Board of the locations of the keys, so as to allow access for emergencies when the Owner or Occupant is absent for extended periods.

12.4. Project Sign Easements. Declarant shall have the right to erect and maintain monument signs identifying the common interest community and related decorative improvements on the Common Elements. Those parts of the Property on which monument signs or related decorative improvements are located shall be subject to appurtenant, exclusive easements in favor of the Association for the continuing use, maintenance, repair and replacement of said signs and improvements. In exercising its rights under said easements, the Association shall take reasonable care to avoid damaging the improvements to the Property.

12.5. Reservation of Easements. Declarant hereby reserves the right to exercise the following rights and create the following perpetual, non-exclusive easements appurtenant to the real estate owned by Declarant and/or Maine Street Investors of Rochester LLP adjacent to the Property (the "Adjacent Real Estate") over, upon, and under portions of the Common Elements, all in accordance with the following authority and conditions:

- a. To connect any improvements constructed on the Adjacent Real Estate to any natural gas, storm sewer, sanitary sewer, electrical, telephone or other utility line, cable TV line, pipe, wire or other facilities which are or may be located within or serve the Property, including the right to connect any improvements constructed on the Adjacent Real Estate into, and the right to utilize, such lines, pipes, wires or other facilities.
- b. To obtain natural gas, water, electricity, telephone, cable TV and other utility services from, and to discharge storm and sanitary waste into, all such lines, pipes, wires or other common utility facilities which are or may be located within or serve the Property.

- c. To install, repair, maintain, operate and replace all such natural gas, storm sewer, water sanitary sewer, electrical, telephone or other utility lines, pipes, wires or other facilities which are or may be located within or serve the Property.
- d. To do such other acts as are necessary in order to connect into and/or to utilize such utility facilities to serve any improvement constructed or to be constructed on the Adjacent Real Estate; provided, however, that the owner or owners of the Adjacent Real Estate benefited by any reserved easements shall be responsible for the restoration of any damage done in connection with or use of such easements.
- e. Non-exclusive easements for the purposes of: (i) affording the Adjacent Real Estate and any improvements constructed or to be constructed thereon with access to and from a public road; (ii) installing, repairing, maintaining, surfacing, resurfacing, grading, replacing and extending any private drives, streets, roads, or rights-of-way over which the easements hereby reserved are or may be located; and (iii) performing such other acts as are necessary in order to afford any improvement constructed or to be constructed on the Adjacent Real Estate with access to a public road; provided, that Declarant, its successors or assigns, as the owner or owners of the Adjacent Real Estate, shall be responsible for the restoration of any land, driveways, streets, roads or rights-of-way which are disturbed in connection with the use of such easements, and provided further, that the location of the easements hereby reserved shall, to the extent practicable, be limited to the location of the private driveways, streets, roads, easement areas and rights-of-way existing within the Common Elements at the time or times that said easements are created.

12.6. Documentation of Easements. The reserved easements may be created from time to time as required to provide the necessary access and utility services to the Property and the Adjacent Real Estate. As evidence of the creation of one or more of the reserved easements, the then owner or owners of the Adjacent Real Estate for whose benefit the easement is created shall execute and cause to be filed for record a Declaration of Easement or comparable instrument setting forth a description of the easements created and a description of the Adjacent Real Estate benefited by the easements. No consent or joinder of the Association or any Owner or any mortgagee or other secured party in any Unit or the Adjacent Real Estate, nor any release therefrom, shall be required to create the easements. In addition, the owner of the Adjacent Real Estate or of a platted lot within the Adjacent Real Estate may at any time waive or terminate its easement rights by the execution and recording of an instrument specifying such waiver or termination, and without the necessity of any consent or joinder by the Association, any Owner, or any mortgagee or other secured party in any Unit or any part of the Adjacent Real Estate. Such waiver or termination shall not affect any obligations incurred by any owner of the Adjacent Real Estate arising out of its acts or omissions prior to such determination.

12.7. Maintenance of Easements. In the event that the reserved easements are created, the Unit Owners and the owner of the Adjacent Real Estate benefited by such easements shall, so

long as the easements are in existence, share all expenses of maintaining, repairing and replacing the private drives, lanes, streets, roads, or rights-of-way, and the utility lines, pipes, wires and other facilities, which may be commonly used pursuant to the easements in the following manner. A portion of any such expenses equal to a fraction, the numerator of which is the number of Units, and the denominator of which is the total number of Units plus the total number of dwellings, lots or other individual parcels within the Adjacent Real Estate benefited by such easements, shall be paid by the Unit Owners. The balance of any such expenses shall be paid by the owner or owners of the Adjacent Real Estate benefited by such easements. Any portion of the expenses to be paid by the Owners shall be paid by the Association as a Common Expense. Notwithstanding the foregoing, if the Adjacent Real Estate benefited by such easements is used for other than residential purposes, then such costs and expenses shall be apportioned to, and shared by the Owners and the owner or owners of the Adjacent Real Estate on a fair and equitable basis as agreed upon by the Association and such other owner or owners.

12.8. Continuation and Scope of Easements. Notwithstanding anything in this Declaration to the contrary, in no event shall an Owner or Occupant be denied reasonable access to his or her Unit or the right to utility services thereto. The easements set forth in this Section 12 shall supplement and not limit any easements described elsewhere in this Declaration or recorded, and shall include reasonable access to the easement areas through the Units and the Common Elements for purposes of maintenance, repair, replacement and reconstruction. All easement rights shall include a right of reasonable access to maintain, repair and replace the utility lines and related equipment.

SECTION 13. COMPLIANCE AND REMEDIES

Each Owner and Occupant, and any other Person owning or acquiring any interest in the Property, shall be governed by and comply with the provisions of the Act, the Governing Documents, the Rules and Regulations, and such amendments thereto as may be made from time to time, and the decisions of the Association. A failure to comply shall entitle the Association to the relief set forth in this Section, in addition to the rights and remedies authorized elsewhere by the Governing Documents and the Act.

13.1. Entitlement to Relief. The Association may commence legal action to recover sums due for damages, for injunctive relief or to foreclose a lien owned by it, or any combination thereof, or an action for any other relief authorized by the Governing Documents or available at law or in equity. Legal relief may be sought by the Association against any Owner to enforce compliance with the Governing Documents, the Rules and Regulations, the Act or the decisions of the Association. Owners may also enforce compliance with the Governing Documents, the Rules and Regulations, or the Act by a private legal action, independent of this Section. No Owner may withhold any Assessments payable to the Association, or take or omit other action in violation of the Governing Documents, the Rules and Regulations or the Act, as a measure to enforce such Owner's position, or for any other reason.

13.2. Sanctions and Remedies. In addition to any other remedies or sanctions, expressed or implied, administrative or legal, the Association shall have the right, but not the obligation, to implement any one or more of the following actions against Owners and

Occupants and/or their guests, who violate the provisions of the Governing Documents, the Rules and Regulations or the Act:

- a. Commence legal action for damages or equitable relief in any court of competent jurisdiction.
- b. Impose late charges of up to the greater of \$20.00, or 15 percent of the amount past due, for each past-due Assessment or installment thereof, and impose interest at the highest rate permitted by law beginning on the first day of the month after the Assessment or installment was due.
- c. In the event of default of more than 30 days in the payment of any Assessment or installment thereof, all remaining installments of Assessments assessed against the Unit owned by the defaulting Owner may be accelerated and shall then be payable in full if all delinquent Assessments or installments thereof, together with all attorneys' fees, costs of collection and late charges, are not paid in full prior to the effective date of the acceleration. Not less than 10 days' advance written notice of the effective date of the acceleration shall be given to the defaulting Owner.
- d. Impose reasonable fines, penalties or charges for each violation of the Act, the Governing Documents or the Rules and Regulations of the Association.
- e. Suspend the rights of any Owner to vote when the Assessments due with respect to the Owner's Unit are past due, and suspend the rights of any Owner or Occupant and their guests to use any Common Element amenities; provided, that the suspension of use rights shall not apply to Limited Common Elements, or deck, balcony, porch or patio easements, appurtenant to the Unit, and those portions of the Common Elements providing utilities service and access to the Unit. Such suspensions shall be limited to periods of default by such Owners and Occupants in their obligations under the Governing Documents, and for up to 30 days thereafter, for each violation.
- f. Restore any portions of the Common Elements or Limited Common Elements damaged or altered, or allowed to be damaged or altered, by any Owner or Occupant or their guests in violation of the Governing Documents, and to assess the cost of such restoration against the responsible Owners and their Units.
- g. Enter any Unit or Limited Common Element in which, or as to which, a violation or breach of the Governing Documents exists which is likely to materially affect the health or safety of the other Owners or Occupants, or their guests, or the safety or soundness of any Dwelling or other part of the Property or the property of the Owners or Occupants, and to summarily abate and remove, at the expense of the offending Owner or Occupant, any

structure, thing or condition in the Unit or Limited Common Elements which is causing the violation; provided, that any improvements which are a part of a Dwelling may be altered or demolished only pursuant to a court order or with the agreement of the Owner.

- h. Foreclose any lien arising under the provisions of the Governing Documents or under law, in the manner provided by the Act.

13.3. Rights to Hearing. Before the imposition of any of the remedies authorized by Section 13.2 d., e., f. or g., the Board shall, upon written request of the offender, grant to the offender an opportunity for a fair and equitable hearing as contemplated by the Act. The offender shall be given notice of the nature of the violation and the right to a hearing, and at least 10 days within which to request a hearing. The hearing shall be scheduled by the Board and held within 30 days of receipt of the hearing request by the Board, and with at least 10 days' prior written notice to the offender. If the offender fails to timely request a hearing or to appear at the hearing, then the right to a hearing shall be deemed waived and the Board may take such action as it deems appropriate. The decision of the Board and the rules for the conduct of hearings established by the Board shall be final and binding on all parties. The Board's decision shall be delivered in writing to the offender within 10 days following the hearing, if not delivered to the offender at the hearing. The Board may delegate the foregoing hearing authority to a committee of three or more disinterested Owners, who shall conduct the hearing and make a recommendation to the Board regarding the disposition of the matter.

13.4. Lien for Charges, Penalties, Etc. Any Assessments, charges, fines, expenses, penalties or interest imposed under this Section shall be a lien against the Unit of the Owner or Occupant against whom the same are imposed and the personal obligation of such Owner in the same manner and with the same priority and effect as Assessments under Section 6. The lien shall attach as of the date of imposition of the remedy, but shall not be final as to violations for which a hearing is held until the Board makes a written decision at or following the hearing. All remedies shall be cumulative, and the exercise of, or failure to exercise, any remedy shall not be deemed a waiver of the Association's right to pursue any others.

13.5. Costs of Proceeding and Attorneys' Fees. With respect to any collection measures, or any measures or action, legal, administrative, or otherwise, which the Association takes to enforce the provisions of the Act, Governing Documents or Rules and Regulations, whether or not finally determined by a court or arbitrator, the Association may assess the violator and his or her Unit with any expenses incurred in connection with such enforcement, including without limitation fines or charges previously imposed by the Association, reasonable attorneys' fees, and interest (at the highest rate allowed by law) on the delinquent amounts owed to the Association. Such expenses shall also include any collection or contingency fees or costs charged to the Association by a collection agency or other Person acting on behalf of the Association in collecting any delinquent amounts owed to the Association by an Owner or Occupant. Such collection or contingency fees or costs shall be the personal obligation of such Owner and shall be a lien against such Owner's Unit.

13.6. Liability for Owners' and Occupants' Acts. An Owner shall be liable for the expense of any maintenance, repair or replacement of the Property rendered necessary by such

Owner's acts or omissions, or by that of Occupants or guests in the Owner's Unit, to the extent that such expense is not covered by the proceeds of insurance carried by the Association or such Owner or Occupant. However, any insurance deductible amount and/or increase in insurance rates, resulting from the Owner's acts or omissions may be assessed against the Owner responsible for the condition and against his or her Unit.

13.7. Enforcement by Owners. The provisions of this Section shall not limit or impair the independent rights of other Owners to enforce the provisions of the Governing Documents, the Rules and Regulations, and the Act as provided therein.

SECTION 14. AMENDMENTS

14.1. Approval Requirements. Except for amendments by Declarant pursuant to Sections 515B.2-111 and 515B.2-112(c) of the Act, this Declaration may be amended only by the approval of:

- a. Owners of Units to which are allocated at least 67 percent of the total votes in the Association.
- b. The percentage of Eligible Mortgagees (based upon one vote per Unit financed) required by Section 15 as to matters prescribed by said Section.
- c. The FHA or VA, as applicable, during the period of Declarant control under Section 16.5, as to the following matters:
 - (1) The annexation of Additional Real Estate.
 - (2) The merger or consolidation of the Association with another Association or other legal entity.
 - (3) The acquisition, dedication or mortgaging of Common Elements.
 - (4) The dissolution of the Association.
 - (5) The amendment of this Declaration, or the Articles of Incorporation or By-Laws of the Association.
- d. Declarant as to certain amendments as provided in Section 16.6.

14.2. Procedures. Approval of the Owners may be obtained in writing or at a meeting of the Association duly held in accordance with the By-Laws. Consents of Eligible Mortgagees, the FHA, the VA and Declarant shall be in writing. Any amendment shall be subject to any greater requirements imposed by the Act. The amendment shall be effective when recorded as provided in the Act. An affidavit by the Secretary of the Association as to the outcome of the vote, or the execution of the foregoing agreements or consents, shall be adequate evidence thereof for all purposes, including without limitation, the recording of the amendment.

SECTION 15. RIGHTS OF ELIGIBLE MORTGAGEES

Notwithstanding anything to the contrary in the Governing Documents, and subject to any greater requirements of the Act or other laws, Eligible Mortgagees shall have the following rights and protections:

15.1. Consent to Certain Amendments. The written consent of Eligible Mortgagees representing at least 51 percent of the Units that are subject to first mortgages held by Eligible Mortgagees (based upon one vote per Unit financed) shall be required for any amendment to the Governing Documents which causes any change in provisions including the following: (i) voting rights; (ii) increases in Assessments over 25 percent, Assessment liens, or priority of Assessment liens; (iii) reductions in reserves for maintenance, repair and replacement of Common Elements; (iv) responsibility for maintenance and repairs; (v) reallocation of interests in the Common Elements or Limited Common Elements, or rights to their use; (vi) redefinition of any Unit boundaries; (vii) convertibility of Units into Common Elements or vice versa; (viii) expansion or contraction of the Property or the addition, annexation or withdrawal of property to or from the Property; (ix) hazard or fidelity insurance requirements; (x) imposition of restrictions on the leasing of Units; (xi) imposition of any restrictions on an Owner's right to sell or transfer his or her Unit; (xii) a decision by the Association (if the project involves 50 or more Units) to establish self management when professional management is in effect as required previously by the Governing Documents or an Eligible Mortgagee; (xiii) restoration or repair of the Property (after a hazard damage or partial condemnation) in a manner other than that specified in the Governing Documents; (xiv) any action to terminate the legal status of the common interest community after substantial destruction or condemnation occurs; or (xv) any provisions that expressly benefit Eligible Mortgagees, or insurers or guarantors of mortgages.

15.2. Consent to Certain Actions. The written consent of Eligible Mortgagees representing at least 67 percent of the Units that are subject to first mortgages held by Eligible Mortgagees (based upon one vote per Unit financed) shall be required to (i) abandon or terminate the common interest community; (ii) change the allocations of voting rights, Common Expense obligations or interests in the Common Elements; (iii) partition or subdivide a Unit except as permitted by statute; (iv) abandon, partition, subdivide, encumber or sell the Common Elements; or (v) use hazard insurance proceeds for other than the repair, replacement or reconstruction of the Property, except as otherwise provided by law.

15.3. Consent to Subdivision. No Unit may be partitioned or subdivided without the prior written approval of the Owner and Eligible Mortgagee thereof, and the Association.

15.4. No Right of First Refusal. The right of an Owner to sell, transfer or otherwise convey his or her Unit shall not be subject to any right of first refusal or similar restrictions.

15.5. Priority of Lien. Any holder of a first mortgage on a Unit or any purchaser of a first mortgage at a foreclosure sale, that comes into possession of a Unit by foreclosure of the first mortgage or by deed or assignment in lieu of foreclosure, takes the Unit free of any claims for unpaid Assessments or any other charges or liens imposed against the Unit by the Association which have accrued against such Unit prior to the acquisition of possession of the Unit by said first mortgage holder or purchaser; (i) except as provided in Section 6.10 and the

Act and (ii) except that any unreimbursed Assessments or charges may be reallocated among all Units in accordance with their interests in the Common Elements.

15.6. Priority of Taxes and Other Charges. All taxes, Assessments and charges which may become liens prior to the first mortgage under state law shall relate only to the individual Units and not to the Property as a whole.

15.7. Priority for Condemnation Awards. No provision of the Governing Documents shall give an Owner, or any other party, priority over any rights of the Eligible Mortgagee of the Unit pursuant to its mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Unit and/or the Common Elements. The Association shall give written notice to all Eligible Mortgagees of any condemnation or eminent domain proceeding affecting the Property promptly upon receipt of notice from the condemning authority.

15.8. Requirements for Management Agreements. The term of any agreement for professional management of the Property may not exceed two years. Any such agreement must provide at a minimum for termination without penalty or termination fee by either party, (i) with cause upon 30 days' prior written notice, and (ii) without cause upon 90 days' prior written notice.

15.9. Access to Books and Records/Audit. Eligible Mortgagees shall have the right to examine the books and records of the Association upon reasonable notice during normal business hours, and to receive free of charge, upon written request, copies of the Association's annual reports and other financial statements. Financial statements, including those which are audited, shall be available within 120 days of the end of the Association's fiscal year. If the common interest community consists of fewer than 50 Units, FNMA, or any institutional guarantor or insurer of a mortgage loan against a Unit, may require that, at its own expense, an audit of the Association's financial statements be made for the preceding year, in which case the Association shall cooperate in having an audit made and a copy given to the requesting party. If the common interest community consists of 50 or more Units, the Association shall provide the requested audit at its expense.

15.10. Notice Requirements. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor of a mortgage on a Unit, and the Unit number or address, the holder, insurer or guarantor shall be entitled to timely written notice of:

- a. a condemnation loss or any casualty loss which affects a material portion of the Property or the Unit securing the mortgage;
- b. a 60-day delinquency in the payment of Assessments or charges owed by the Owner of a Unit on which it holds a mortgage;
- c. a lapse, cancellation or material modification of any insurance policy maintained by the Association; and
- d. a proposed action which requires the consent of a specified percentage of Eligible Mortgagees.

SECTION 16. SPECIAL DECLARANT RIGHTS

Declarant hereby reserves exclusive and unconditional authority to exercise the following special declarant rights within the meaning of Section 515B.1-103 (31) of the Act for as long as it owns a Unit, or for such shorter period as may be specifically indicated:

16.1. Complete Improvements. To complete all the Units and other improvements indicated on the Plat, or otherwise included in Declarant's development plans or allowed by the Declaration, and to make alterations in the Units and Common Elements to accommodate the exercise of any special declarant rights.

16.2. Sales Facilities. To construct, operate and maintain a sales office, management office, model Units and other development, sales and rental facilities, within the Common Elements, and within any Units owned by Declarant from time to time, located anywhere on the Property.

16.3. Signs. To erect and maintain signs and other sales displays offering the Units for sale or lease, in or on any Unit owned by Declarant and on the Common Elements.

16.4. Easements. To have and use easements, for itself, its employees, contractors, representatives, agents and prospective purchasers through and over the Common Elements and the yard areas of the Units for the purpose of exercising its special declarant rights.

16.5. Control of Association. To control the operation and administration of the Association, including without limitation the power to appoint and remove the members of the Board pursuant to Section 515B.3-103 of the Act, until the earliest of: (i) voluntary surrender of control by Declarant, (ii) an Association meeting which shall be held within 60 days after conveyance to Owners other than Declarant of 75 percent of the total number of Units authorized to be included in the Property or (iii) the date 5 years following the date of the first conveyance of a Unit to an Owner other than Declarant. Notwithstanding the foregoing, the Owners other than Declarant shall have the right to nominate and elect not less than 33 1/3 percent of the directors at a meeting of the Owners which shall be held within 60 days following the conveyance by Declarant of 50 percent of the total number of Units authorized to be included in the Property.

16.6. Consent to Certain Amendments. Until such time as Declarant no longer owns any Unit for initial sale, Declarant's written consent shall be required for any amendment to the Governing Documents or Rules and Regulations which directly or indirectly affects Declarant's rights under the Governing Documents or the Act.

SECTION 17. MISCELLANEOUS

17.1. Severability. If any term, covenant, or provision of this instrument or any exhibit attached hereto is held to be invalid or unenforceable for any reason whatsoever, such determination shall not be deemed to alter, affect or impair in any manner whatsoever any other portion of this Declaration or exhibits attached hereto.

17.2. Construction. Where applicable, the masculine gender of any word used herein shall mean the feminine or neutral gender, or vice versa, and the singular of any word used herein shall mean the plural, or vice versa. References to the Act, or any section thereof, shall be deemed to include any statutes amending or replacing the Act, and the comparable sections thereof.

17.3. Tender of Claims. In the event that any incident occurs which could reasonably give rise to a demand by the Association against Declarant for indemnification pursuant to the Act, the Association shall promptly tender the defense of the action to its insurance carrier, and give Declarant written notice of such tender, the specific nature of the action and an opportunity to defend against the action.

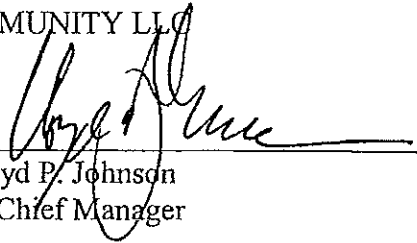
17.4. Notices. Unless specifically provided otherwise in the Governing Documents or the Act, all notices required to be given by or to the Association, the Board, the Association officers or the Owners or Occupants shall be in writing and shall be effective upon hand delivery, or mailing if properly addressed with postage prepaid and deposited in the United States mail.

17.5. Conflicts Among Documents. In the event of any conflict among the provisions of the Act, the Declaration, the By-Laws or any Rules or Regulations approved by the Association, the Act shall control unless it permits the documents to control. As among the Declaration, By-Laws and Rules and Regulations, the Declaration shall control, and as between the By-Laws and the Rules and Regulations, the By-Laws shall control.

17.6. Duration of Covenants. The covenants, conditions, restrictions, easements, liens and charges contained in this Declaration shall be perpetual, subject only to termination as provided in this Declaration and the Act.

IN WITNESS WHEREOF, the undersigned has executed this instrument the day and year first set forth in accordance with the requirements of the Act.

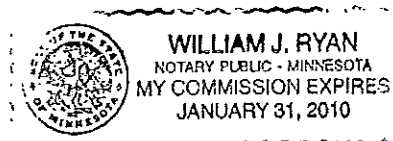
THE GARDENS MANUFACTURED HOME
COMMUNITY LLC

By 
Lloyd P. Johnson
Its Chief Manager

STATE OF MINNESOTA)
) SS
COUNTY OF OLMDSTED)

The foregoing instrument was acknowledged before me this 25th day of May, 2006, by Lloyd P. Johnson, the Chief Manager of The Gardens Manufactured Home Community LLC, a Minnesota limited liability company, on behalf of the limited liability company.


Notary Public



THIS INSTRUMENT WAS DRAFTED BY:

Dunlap & Seeger, P.A.
206 South Broadway, Suite 505
P.O. Box 549
Rochester, MN 55903-0549

Exhibit A

Description of Real Property

All of The Gardens Fourth Subdivision, in the City of Rochester, Olmsted County, Minnesota.

Together with and subject to the rights and obligations contained in that certain Access Easement Agreement dated May 25, 2006, and recorded May 25th, 2006, as Document No. A-1101245, between Maine Street Investors of Rochester LLP and The Gardens Manufactured Home Community LLC.

Exhibit B

Common Elements

Outlots A, B, C and D, The Gardens Fourth Subdivision, in the City of Rochester, Olmsted County, Minnesota.

Together with and subject to the rights and obligations contained in that certain Access Easement Agreement dated May 25, 2006, and recorded May 25, 2006, as Document No. A-1101245, between Maine Street Investors of Rochester LLP and The Gardens Manufactured Home Community LLC.

RECEIPT

The undersigned acknowledges receipt of the following documents related to the purchase of a lot in The Gardens, Common Interest Community No. 307, Rochester, Olmsted County, Minnesota:

1. Articles of Incorporation of The Gardens Owners' Association Inc.
2. Bylaws of The Gardens Owners' Association Inc.
3. Declaration
4. Disclosure Statement
5. Balance Sheet of The Gardens Owners' Association Inc.
6. 2006 Budget for The Gardens Owners' Association Inc.
7. Rules and Regulations
8. Architectural Standards

The undersigned acknowledges that he/she has been informed that the Disclosure Statement and other information described above are required to be given to at least one purchaser of a unit prior to the conveyance of that unit. If a purchaser has not been given a Disclosure Statement at least 10 days prior before execution of a purchase agreement, the purchaser may, before conveyance of the unit, cancel the purchase agreement within 10 days after first receiving the Disclosure Statement. If the purchaser is given the Disclosure Statement more than 10 days before execution of the purchase agreement, the purchaser may not cancel the purchase agreement.

Dated: _____

