

*Jefferson Place*  
DECLARATION AND BY-LAWS

DECLARATION OF HORIZONTAL  
PROPERTY OWNERSHIP  
JEFFERSON PLACE CONDOMINIUMS  
HORIZONTAL PROPERTY REGIME

Allen County, Indiana

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DECLARATION OF HORIZONTAL  
PROPERTY OWNERSHIP  
JEFFERSON PLACE CONDOMINIUMS  
HORIZONTAL PROPERTY REGIME

This Declaration, filed December, 1986, by Southwestern Corp., an  
Indiana Corporation (the "Declarant"),

WITNESSETH:

WHEREAS, the following facts are true:

A. Declarant is the sole owner of the fee simple title to the following  
described real estate (the "Tract"), located in Allen County, Indiana, to wit:

See exhibit "A" attached hereto and made a part hereof.

B. Declarant, by execution of this Declaration, hereby creates a Horizontal  
Property Regime upon the Tract, to be known as "JEFFERSON PLACE  
CONDOMINIUMS", subject to the provisions of the Horizontal Property Act of the  
State of Indiana, and the terms and conditions of this Declaration.

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

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

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

(b) "Association" means the unincorporated association of Owners of  
JEFFERSON PLACE CONDOMINIUMS, more particularly described in  
paragraph 14 hereof.

(c) "Board of Directors" means the governing body of the Association  
elected by the Owners in accordance with the By-Laws.

(d) "By-Laws" means the By-Laws of the Association providing for the  
administration and management of the Property as required by, and in conformity  
with, the provisions of the Act.

(e) "Common Areas" means the common areas and facilities appurtenant  
to the Property as defined, and described, in paragraph 7 hereof.

(f) "Common Expenses" means expenses of administration of the  
Association and expenses for the insurance, upkeep, maintenance, repair and  
replacement of the Common Areas and Limited Common Areas and all sums  
lawfully assessed against the Owners by the Association or as declared by the  
Act, this Declaration, or the By-Laws.

(g) "Condominium Interest" means the following:

1. Fee simple title to a Home, and
2. An individual Fractional Interest as tenant in common, together with all other Owners, in the Common Areas and Limited Common Areas of the Tract, and
3. An exclusive right to use the areas as described in the Declaration, Plans and accompanying documents, as "Limited Common Areas" appurtenant to, and restricted to the use of, the Owner's respective Home, and
4. A membership in the Association, as hereinafter defined, subject to this Declaration, the By-Laws of said Association, and all governing documents of said Association.

(h) "Contractable Condominium" means a Condominium from which one (1) or more portions of the Tract may be withdrawn by the Declarant, its successors and assigns, in accordance with the provisions of Paragraph 23 of this Declaration.

(i) "Fractional Interest" means the property ownership interest of an Owner determined by the fraction in which the numerator is one and the denominator is the total of all Homes shown on the Site Development Plan, hereto attached as Exhibit "C", constituting JEFFERSON PLACE CONDOMINIUMS.

(j) "Home" means one of the living units constituting JEFFERSON PLACE CONDOMINIUMS and shall be synonymous with the term "Condominium Unit" as used in the Act. Each individual unit shall be a separate freehold estate as provided in the Act, consisting of the space bounded by such unit and being more particularly described and identified on the Site Development Plan and in paragraphs 5 and 6 of this Declaration.

(k) "Home Floor Plans" means the architectural drawings, detailing the layout, of the individual Homes to be constructed in the Structural Locations, as shown and located on the Site Development Plan, and which individual Homes therein constructed collectively comprise the Structural Unit there located. These Home Floor Plans shall be prepared and filed in the Office of the Recorder of Allen County, Indiana, and shall be deemed incorporated therein by reference.

(l) "JEFFERSON PLACE CONDOMINIUMS" means the name by which the Property and this Horizontal Property Regime shall be known.

(m) "Limited Common Areas" means the limited common areas and facilities as defined, and described, in paragraph 8 of this Declaration.

(n) "Owner" means the record titleholder of each of the Homes.

(o) "Project" means the condominium project known as JEFFERSON PLACE CONDOMINIUMS HORIZONTAL PROPERTY REGIME, including therein all "Property" constituting the same, as said term has been defined in this paragraph.

(p) "Property" means the Tract and appurtenant easements, including therein any annexations or additions thereto, the Homes, the non-residential buildings, garages, improvements, and property of every kind and nature whatsoever, real, personal, and mixed, located upon the Tract and used in

connection with the operation, use, and enjoyment of JEFFERSON PLACE CONDOMINIUMS.

(q) "Resident" means any Owner, or member of the Owner's immediate family residing with Owner as a part of Owner's family or household.

(r) "Site Development Plan" means the layout drawings of the Tract with the Structural Locations for the various numbered Homes to be thereon constructed, constituting JEFFERSON PLACE CONDOMINIUMS as prepared by Owens/Russell Associates, Inc., certified by James Lee Russell, a Registered Engineer and Land Surveyor, under the original date of March 17, 1986, as prepared by Architectural Concepts, Inc., certified by Richard H. Shannon, A. I. A., under the original date of June 6, 1986, said layout drawings, together with legal description appearing thereon, being marked Exhibit "C", and incorporated herein by reference.

(s) "Structural Unit" means that Home, or group of attached Homes, constructed in any one of the Structure Locations as designated, described, and shown on the Site Development Plan.

(t) "Structural Location" means that location, as designated, described, and located upon the Site Development Plan, in and upon which, a Home, or group of attached Homes, is (are) to be constructed.

(u) "Tract" means the real estate described in paragraph A above.

(v) "Unoccupied" means not currently being purchased by anyone, not currently owned by any Owner other than Declarant, not currently being used by Declarant, or any agent of Declarant, as a sales office or model.

2. DECLARATION. Declarant hereby expressly declares that the Property shall be a Horizontal Property Regime in accordance with the provisions of the Act. The Site Development Plan represents this Property in its proposed final developed condition utilizing its legal description and the layout drawings of the Structure Locations, each showing the number of Homes proposed to constitute the Structural Units thereon situated with a number assigned to each said Home. Declarant reserves exclusive control over all matters relating to development of this Horizontal Property Regime, and the right to construct and maintain up to ten (10) model homes therein not to exceed seventeen hundred (1700) square feet of living space plus five hundred (500) square feet of garage space per model home, at any unoccupied Structure Locations set out on the Site Development Plan, which homes may be relocated at any time to any other unoccupied Structure Locations, and any of said model homes may be used and maintained as a sales and management office.

Inasmuch as each Home is to be built in accordance with that Home Floor Plan design selected by each new Owner, specific Home Floor Plans for each numbered Home cannot be filed at this time. Therefore, it is the intent of this Declarant to file, upon their respective completion, specific Home Floor Plans detailing the location, layout, identification, and dimensions of each new Home. Hereafter, all Home Floor Plans filed by this Declarant in conjunction with this project shall be deemed incorporated herein by reference.

3. DESCRIPTION OF HOMES. The total number of Homes shall not exceed eighty-four (84), as shown on the Site Development Plan. The Homes shall be constructed as sold, or as the Developer may elect. The Homes are identified and referred to in the Site development Plan and in this Declaration by number. Each Home shall consist of not more than two stories above ground, and may have a basement, provided, if the Home is in a designated flood-way, the floor of same is at or above 764 feet Mean Sea Level, the first floor does not project above the finished floor to ceiling height of said basement is at least seven (7) feet with no projection downward from said finished ceiling exceeding four (4) inches, lighting or decorative fixtures excepted here-from.

4. HOME AND IMPROVEMENT LOCATIONS AND CONDITIONS.

A. LOCATION BOUNDARIES

The Site Development Plan discloses the location of streets, front building lines set back from said streets and rear building lines, as applicable, set back from the respective property lines of the Tract. The location of any perimeter wall of a Structural Unit shall be no nearer to a street than said front building lines and no nearer to a Tract property line than said rear building lines, except that decks and porches, whether enclosed or not, of a Structural Unit may extend over said rear building lines not to exceed fifteen (15) feet. No side perimeter wall of a Structural Unit may be located less than ten (10) feet from the side perimeter wall of any other Structural Unit. The rear perimeter walls of any two (2) Structural Units shall not be less than twenty (20) feet one from the other. The side perimeter walls of any Structural Unit may not be closer than fifteen (15) feet from the rear perimeter walls of any other Structural Unit. These restrictions shall not apply between non-residential units; and porches, decks, and patios, whether enclosed or not, may encroach upon such separation space, not to exceed fifty percent (50%) of the total separation space.

B. DEVELOPER'S IMPROVEMENTS.

Before any Home shall be used and occupied as a dwelling, the Developer, or any subsequent Owner of any Home site within any of the Structure Locations, shall install improvements serving said Home site as provided in the Site Development Plan for this Regime.

C. PERMITS.

Before any site within any of the Structure Locations may be used or occupied, such user or occupier, or the Developer, shall first obtain from the appropriate governmental and utility authorities all required permits, including a Certificate of Occupancy.

D. SURFACE DRAINAGE EASEMENTS.

Surface drainage easements and Common areas used for drainage purposes, as shown on the Site Development Plan, are intended for either periodic or occasional use as conductors for the flow of surface water runoff to a suitable outlet, and the land surface shall be constructed and maintained in an unobstructed condition. The County Surveyor, or a proper public authority having jurisdiction over storm drainage, shall have the right to determine if any obstruction exists and to repair and maintain, or to require such repair and



maintenance, as shall be reasonably necessary to keep the conductors unobstructed.

No owner shall cause or permit water discharged from sump pumps or footing drains, or rain water from roofs, lawns or paved areas, within his control, to be directed, in any manner, into the sanitary sewer system of the service utility.

#### E. OBSTRUCTIONS.

All easements shall be kept free at all times of permanent structures, except improvements installed by an authorized utility, and removal of an obstruction by a utility company shall in no way obligate the company to restore the obstruction. Any structure, shrubbery, trees, or other installation located on easements for public and municipal utilities, whether temporary or permanent, shall be subject to the paramount right of the utility or sewage treatment works to install, repair, maintain, or replace its utility and sewer installation.

#### F. FLOOD ELEVATIONS.

The minimum protection grades for all Structural Units situated upon, and constituting a part of, this Tract shall be seven hundred sixty four feet (764.0') Mean Sea Level. The minimum flood protection grade is defined, as the elevation of the lowest point around the perimeter of a Structural Unit at which floodwaters may enter the interior of the Structural Unit, including the basements, if any exists.

#### G. RUN WITH THE LAND, AMENDMENT.

The covenants and restrictions herein contained shall run with the land and be effective from the date of recordation of this Declaration, provided, however, SOUTHWESTERN CORP., its successors or assigns shall have the exclusive right, for so long as it shall be the record titleholder of a majority of the individual condominium sites, to amend any of the covenants and restrictions contained in this Declaration or the By-Laws provided that all such amendments are determined and exercised in a reasonable manner and that no such amendments may destroy the general scheme of development set forth herein, and with the approval of the Allen County Plan Commission. Thereafter, such amendments shall require a three-fourths ( $\frac{3}{4}$ ) majority vote of all record titleholders and a majority vote of all affected mortgagees, with the approval of the Allen County Plan Commission.

5. IDENTIFICATION OF HOMES. Each Home will be identified, and legally described, by a Home number as shown on the Site Development Plan.

#### 6. DESCRIPTION OF HOMES.

##### A. APPURTENANCES.

Each Home shall consist of all space within the unfinished interior surface of the perimeter walls, floor, and ceiling, or roof, thereof as herein defined, including but not limited to, all fixtures, facilities, utilities, equipment, appliances, and structural components designed and intended solely and exclusively for the enjoyment, use and benefit of the Home, whether totally, or only partly, located within, or attached to, same, but excluding therefrom those designed or intended for the use, benefit, support, safety, or enjoyment of any other Home or which

may be necessary for the safety, support, maintenance, use and operation of any other Home, or which are normally designed for common use.

**B. BOUNDARIES.**

The boundaries of each Home shall be in accord with the actual existing construction of the perimeter walls thereof as same are identified and described on the "as built" certification as recorded.

**C. INHERENT CONDOMINIUM INTEREST.**

Each Home shall carry with it and have inherent therein a "Condominium Interest", as that term is herein-above defined, and said "Condominium Interest" shall be inseparable from said Home and shall pass with the fee interest to said Home as an integral part thereof.

**7. COMMON AREAS AND FACILITIES.** Common Areas means, and includes, all portions of the Property and the improvements thereon, except the Homes, and includes the portion called "Limited Common Areas", the exclusive use and enjoyment of which are, or are to be, assigned to fewer than all of the Owners, all as provided for in this Declaration, the By-Laws of the Association, and Plans of JEFFERSON PLACE CONDOMINIUMS.

Common Areas shall include, but are not necessarily limited to, the following: (1) the Tract; (2) the yards, gardens, and driveways and sidewalks, except those which are tributary in nature leading to and from individual Homes; (3) central water and sanitary sewer mains serving the Homes; (4) exterior lighting fixtures and electrical service, not attaches to the Home, lighting the exterior of the Homes; (5) pipes, ducts, electrical wiring and conduits and public utility lines outside the perimeter walls of the Homes except those areas and facilities expressly defined as part of a Home and/or Limited Common Area; and (6) all non-residential building situated on the Tract.

**8. LIMITED COMMON AREAS AND FACILITIES.** Limited Common Areas shall be those portions of the Common Areas described above which are limited in their use and enjoyment to fewer than all the Owners. Limited Common Areas are as follows:

**A. PATIOS.** For every Home there is a patio designated on the Plans. Each patio shall be limited to the use and enjoyment of the Home to which the patio is appurtenant and yard area adjoins, as designated on the Plans.

**B. ENTRANCE-WAYS.** Entranceways through which access to a Home is obtained are limited to the use and enjoyment of the Home served by such entranceway, including tributary sidewalks and driveways leading to and from individual Homes.

**C. UTILITIES AND IMPROVEMENTS SERVING INDIVIDUAL HOMES.** All utilities, lying within a Home and exclusively serving a particular Home, shall be deemed to be Limited Common Areas, and shall be restricted to the use and enjoyment of the Home which they serve. Such utilities shall expressly be deemed to include all water, sewer, gas, electrical, telephone, audio and video cable, and heating lines, ducts, improvements and facilities of every type or nature whatsoever. All air conditioning facilities, including all air conditioning ducts, lines, and improvements lying within the exterior perimeters of any Home, all air condenser units located or lying outside such Home, and all lines, ducts or

facilities connecting any such condenser with any of the said lines, ducts or improvements within the perimeters of such Home, shall be Limited Common Areas, and shall be restricted to the use and enjoyment of the Home which they serve.

9. OWNERSHIP OF COMMON AREAS AND FRACTIONAL INTEREST.

Each Owner shall have an undivided ownership interest in the Common Areas and Limited Common Areas, as a tenant in common with all other Owners, equal to his or her Home's Fractional Interest, as set forth in Exhibit "B" attached hereto. The Fractional Interest of all Homes shall be equal for all purposes. Except as otherwise provided or permitted herein, the Fractional Interest appertaining to each separate Home in the Common Areas and Limited Common Areas shall be of a permanent nature and shall not be altered without the unanimous consent of all the Owners and mortgagees, and then only if in compliance with all requirements of the Act.

10. EASEMENTS FOR COMMON AREAS. Notwithstanding anything here-above or hereinafter set forth, each Owner shall have an easement in common with each other Owner to use all pipes, wires, ducts, cables, conduits, utility lines, and other common facilities located in any of the other Homes and serving his or her Home.

11. REAL ESTATE TAXES. Real estate taxes are to be separately taxed to each Home as provided in the Act. In the event for any year real estate taxes are not separately assessed and taxed to each Home, but are assessed and taxed on the Property as a whole, then each Owner shall pay his or her proportionate share of the real estate taxes assessed to the Property in accordance with the Fractional Interest appertaining to his or her respective Home, and shall further pay his or her proportionate share of the taxes on the improvements based upon the ratio between the value of his or her Home and the sum of the values of all Homes that make up the assessment on improvements. Where replacement costs have been established for purposes of insurance, such replacement costs shall be deemed to establish the relative values of the respective Homes for purposes of this paragraph.

12. UTILITIES. Each Owner shall pay his or her own utility costs, which are separately metered. Utilities, which are not separately metered to the Homes, shall be treated, and paid, as part of the Common Expenses.

13. EASEMENTS FOR UTILITIES AND PUBLIC AND QUASI-PUBLIC VEHICLES.

All public and quasi-public vehicles, including, but not limited to, police, fire, and other emergency vehicles, trash and garbage collection, post office vehicles, and privately owned delivery vehicles, shall have the right, as necessary, to enter upon the streets, Common Areas and Limited Common Areas of JEFFERSON PLACE CONDOMINIUMS in the performance of their duties. An easement is also granted to all utilities and their agents for ingress, egress, installation, replacement, repairing and maintaining of such utilities, including, but not limited to, water, sewers, gas, telephones, audio and video cables, and electricity on the Property; provided, however, nothing herein shall permit the installation of sewers, electric lines, water lines, or other utilities,

except as initially designed and approved by Declarant or as thereafter may be approved by the Board of Directors. By virtue of this easement, the electric and telephone utilities are expressly permitted to erect and maintain the necessary equipment on the Property and to affix and maintain only underground electric and telephone wires, circuits and conduits servicing each Home.

14. ASSOCIATION OF OWNERS. In order to provide for maintenance, repair, replacement, administration and operation of the Property and in compliance with the provisions of the Act, there is hereby created an association of the Owners of the Homes in JEFFERSON PLACE CONDOMINIUMS, to be known as the JEFFERSON PLACE CONDOMINIUMS ASSOCIATION. Each Owner shall be a member of the Association, but membership shall terminate when such person ceases to be an Owner, and will be transferred to the new Owner.

The Association shall elect a Board of Directors annually in accordance with, and as prescribed by, the By-Laws. Each Home shall have one vote on all matters coming before the Association for a vote. The Owners shall each be entitled to cast their respective vote for the election of each member of the Board of Directors. Cumulative voting shall not be permitted.

The Board of Directors shall be the governing body of the Association, representing all of the Owners in providing for the management, maintenance, repair, replacement, and upkeep of the Property.

15. MAINTENANCE, REPAIRS AND REPLACEMENT. Each Owner shall, at his or her expense, be responsible for all maintenance, repairs, decoration and replacement within his or her own Home, except as may otherwise be provided in the By-Laws. Each Owner shall repair any defect occurring in his or her Home, which, if not repaired, might adversely affect any other Home, Common Area, or Limited Common Area. Maintenance, repairs, replacements and upkeep of the Common Areas and Limited Common Areas shall be furnished by the Association and shall be chargeable by the Association to all Homes, or fewer than all Homes, as the Declaration, the By-Laws, and rules and regulations of the Association of Owners shall provide.

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

The Association shall, strictly adhering to the provision of I.C. 32-1-6-22, have the determining, by estimate or otherwise, and collecting the amount of Common Expenses necessary to maintain, repair and administer the JEFFERSON PLACE CONDOMINIUMS and all improvements constituting a part thereof, and said duties of the Association, including determining the method of approving and paying invoices, and keeping and maintaining a record of receipts and expenditures in accord with I.C. 32-1-6-27, shall be more fully set out in the By-Laws thereof consistent with the following general statement of the obligations of said Association. Annually, on or before the date of the regular annual meeting of the Association, it shall notify the Owner of each Home of the amount of the estimated annual assessment, and shall collect quarterly one quarter ( $\frac{1}{4}$ ) of the amount of the approved and adopted budget, commencing on

the first day of the month following the annual meeting at which the annual budget is adopted. The estimated Common Expenses, including, but not necessarily limited to, the insurance premium for all insurable improvements, administration and management expenses, and the cost of maintenance, repair and upkeep of the Common Areas shall be on a calendar year basis. The Association shall maintain and establish and reserve fund for deferred maintenance, repairs, administration costs, payment of a manager, if necessary, payment of insurance premiums and other matters deemed appropriate. Each Owner shall be responsible and liable for a pro-rata share of the Common Expenses.

Notwithstanding anything stated herein elsewhere to the contrary, it is expressly provided that the expenses of maintenance, repair, and upkeep of the Limited Common Areas described and set forth in paragraph 8 shall be borne exclusively by the Owners of the Homes entitled to the use and enjoyment of such Limited Common Areas; but it shall be the duty of the Association to provide all such maintenance, repairs, and upkeep of the Limited Common Areas described in paragraph 8, and to collect for same from the Home Owners entitled to the exclusive use and enjoyment of such Limited Common Areas. The Association may establish uniform reserves with respect to each Home. It shall be understood, however, that any damage cause by an Owner, tenant of an Owner, or guest or invitee by an Owner through said party's negligence, or by his willful acts, shall be the responsibility of the Owner, and a lien against the Home of such Owner, as hereinafter provided shall exist with respect to any such damage.

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

The Board of Directors shall have the power, authority, and obligation to determine all matters affecting assessments, including the determination of whether expenditures with respect to any of the Property, or affecting the same, is assessable against all, or fewer than all, the Owners, except as may otherwise be provided for in this Declaration and/or the By-Laws. Such determinations by the Board shall be binding upon all parties and all Owners, unless it shall be shown that said determinations were made in bad faith with intent to prefer certain Homes or Owners over others, or were made in contravention of the express terms and conditions of the Declaration and/or By-Laws.

16. MANAGEMENT AGREEMENTS. Any management agreement and/or service contract entered into by the Association will be terminable by the Association without cause and without payment of a termination fee upon ninety (90) days, less, written notice, and the term of such management agreement will not exceed the period of three (3) years, but may be renewable by agreement of the parties thereto for successive one (1) year periods. In the event of the termination of a management agreement, as provided herein, the Association

shall enter into a new management agreement with a new management agent prior to the effective date of the termination of the old management agreement. Any decision to establish self-management by the Owners Association shall require the prior consent of at least sixty-seven percent (67%) of the Owners of the Homes and the approval of at least fifty-one percent (51%) of the mortgage holders holding mortgages on Homes.

17. ALTERATIONS, ADDITIONS, IMPROVEMENTS, PARTITIONS.

No Owner shall make any alterations or additions to the perimeter structure of any Home, or to the Common Areas or Limited Common Areas without the prior written approval of the Board of Directors, nor shall any Owner make any alterations to his respective Home within the boundaries thereof which would affect the safety or integrity of the structure in which the Home is located. No Owner shall bring any action for partition or division of the Common Areas or Limited Common Areas. There shall be no judicial partition of the Common Areas or Limited Common Areas, nor shall Declarant, or any person acquiring any interest in the Project, or any part thereof, seek any such judicial partition unless the Property has been removed from the provisions of the Horizontal Property Act of the State of Indiana. However, if any Home shall be owned by two (2) or more persons as tenants in common, joint tenants, or tenants by the entireties, nothing herein contained shall be deemed to prevent a judicial partition between such co-tenants, joint tenants, or tenants by the entireties, but such partition shall not affect any other Home.

18. INSURANCE. The Association, acting through its Board of Directors, shall obtain fire and extended coverage insurance insuring each Home on the Property in an amount equal to the full replacement cost thereof as determined by a qualified appraiser, the amount determined and the insurance renewed annually. The cost of any appraisal shall be a Common Expense. Such insurance shall; (1) provide that, notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Owners do not elect to restore pursuant to paragraph 19, (2) contain a "replacement cost endorsement", (3) provide full coverage for replacement on any Home regardless of what damage, if any, is sustained by any other Home, and (4) provide that the insurance carrier waives rights of subrogation against the Association, the Board of Directors, the contract manager, if any, and their respective agents and employees and the Owners and their respective agents and guests, as same may be available. Such insurance coverage shall be for the benefit of each owner in accordance with the replacement cost established for each respective Home, and, if applicable, the Owner's mortgagee, or, in the case of a non-residential building, for the benefit of the Association. The proceeds shall be payable to the Association, and the Board of Directors shall hold such proceeds as trustee for the individual Owners, after first paying out of the respective shares of the condominium unit Owners, to the extent sufficient for the purpose, all liens on the undivided interest in the Property owned by each Owner.

The Association shall also obtain comprehensive public liability insurance in such limits as the Board of Directors shall deem appropriate, together with workmen's compensation insurance and other liability insurance deemed necessary or appropriate by them. Such insurance shall inure to the benefit of each individual Owner, the Association, the Board of Directors, and any managing agent, or company, acting on behalf of the Association. Such insurance coverage shall also cover cross-liability claims of one insured against the other.

The premiums for all insurance shall be paid by the Association the same as the Common Expenses; provided, however, that the fire and extended coverage portion of such gross premium attributable to the individual Homes shall then be apportioned to the respective Owners on a ratio equal to the respective appraised value of each Owner's Home to the combined appraised value of all of the Homes. The Board shall further have the right to notify the respective Home Owners that insurance premiums shall be paid in whole or in part directly by the mortgagee, where appropriate, and such direction shall be followed by the Home Owners. Such apportioned insurance premiums, upon submission to each Owner, shall in all respects be enforceable against the Homes to which they apply, and the Owners thereof, in the same manner as Common Expenses shall be enforceable against all Homes and Owners.

Each Owner shall have the right to purchase any additional insurance he or she may deem necessary, such policy shall contain provisions prohibiting any right of contribution against the insurance purchased by the Association, and each Owner shall be solely responsible for insurance on the personal property contents of his or her own Home and his or her personal property stored elsewhere on the Property.

19. CASUALTY AND RESTORATION. In the event all, or any portion, of a Home, or Homes, are destroyed, as determined by a two-thirds (2/3) majority vote of the Owners, by the occurrence of fire or other casualty, the Association shall cause the Home, or Homes, to be promptly repaired and restored. The proceeds of the insurance carried by the Association shall be applied to the cost of such restoration. If the insurance proceeds are not adequate to cover the costs of reconstruction of any Home suffering casualty damage, or in the event there are no proceeds, the uninsured costs of restoring the damage suffered by any given Home shall be borne by the Owners proportionately to the Fractional Interest each respectively holds in the Property. If any Owner refuses or fails to make the required repairs necessary to restore any casualty damage to the Common, or Limited Common, Areas of his or her Home to the detriment of the remaining Home Owners, the Association shall complete the restoration and pay the cost thereof, which cost shall become a lien on such defaulting Owner's Home and may be foreclosed in the same manner as provided for the lien of Common Expenses.

In the event of complete destruction of all Homes in the Regime, unless by a vote of two-thirds (2/3) of all the Owners of Homes in the Regime a decision is made to rebuild all Homes, insurance proceeds shall be distributed to each Owner in the ratio that the appraised value of each Home bears to the combined appraised value of all the Homes.

20. CONDEMNATION.

A. If all or any part of the property is taken, or threatened to be taken, by eminent domain, or by power in the nature of eminent domain, whether permanent or temporary, the Association and each Owner shall be entitled to participate in the proceedings incident thereto at their respective expense. The Association shall give timely written notice of the existence of such proceedings to all Owners and to all mortgages known to the Association who have an interest in any Home. The expense of participation in such proceedings by the Association shall be borne by the Association. The Association is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the Association in its discretion deems necessary or advisable to aid or advise it in matters relating to such proceedings. All damages or awards for any such taking shall be deposited with the Association, the Board of Directors shall hold such funds in trust for the respective affected Owners, and such damages or awards shall be applied as herein provided. In the event eminent domain proceedings are brought to condemn a portion of the Common Areas, apart from any Home, the Association, in addition to the general powers set out herein, shall have the sole authority to determine whether to defend or resist such proceeding, make any settlement with respect thereto, or convey such property to the condemning authority in lieu of such condemnation proceedings.

B. With respect to any such taking, all damages and awards shall be determined for the taking of the individual Home(s) and for the taking of the Common Areas and for each Owners' interest therein. After the damages or awards for such taking are determined, such damages or awards shall be paid after first paying out of the respective shares of the Owners, to the extent sufficient for the purpose, all liens on the undivided interest in the Property owned by each Owner, to the account of each Owner for the loss of the individual Home plus an amount in proportion to his or her Fractional Interest in the Common Areas, unless restoration takes place as herein provided. The Association, if it deems advisable, may call a meeting of the Owners, at which meeting the Owners, by a majority vote, shall decide whether to replace or restore, as far as possible, the Common Area so taken or damaged.

In the event it is determined that such Common Areas should be replaced or restored by obtaining other land or building additional Homes, this Declaration and the Plans attached hereto shall be duly amended by instrument executed by the Association on behalf of the Owners. Notwithstanding any provisions herein elsewhere contained indicating to the contrary, no Owner, whose Home has been totally taken or destroyed, can be compelled to rebuild or replace said Home; but, if such Owner shall elect not to replace or rebuild such Home, then, upon payment to said Owner of the funds realized and apportioned to that



Owner's Home and Fractional Interest in said Property, said Owner shall by deed, or such other instrument as may be appropriate, convey all right, title, and interest in the Property to the Jefferson Place Association.

In the event such eminent domain proceedings result in the taking of, or damage to, one or more, but less than two-thirds (2/3), of the total number of Homes, then the damages and awards for such taking shall be determined for each Home and the following shall apply:

1. The Association shall determine which of the Homes damaged by such taking may be made tenantable for the purpose set forth in this Declaration, taking into account the nature of this Project and the reduced size of each Home so damaged.
2. The Association shall determine whether it is reasonably practicable to operate the remaining Homes of the Project, including those damaged Homes, which may be made tenantable, as a condominium in the manner provided in this Declaration.
3. Subject to the provision of I.C. 32-1-6-28, should the Association determine that it is not reasonably practicable to operate the undamaged Homes, and the damaged Homes which can be made tenantable, then the Project shall be deemed to be regrouped and merged into a single estate owned jointly in undivided interest by all Owners, as tenants in common in the proportionate ownership interest previously owned by each Owner in the Common Areas and facilities. Any decision to terminate the condominium status of the Project must have the approval required by I.C. 32-1-6-28.
4. In the event the Association determines it will be reasonably practicable to operate the undamaged Homes, and the damaged Homes, that can be made tenantable, as a condominium, then the damages and awards made with respect to each Home, that may be made tenantable, shall be applied to repair and to reconstruct such Home so that it is made tenantable. The restoration shall be performed in accordance with the Declaration and the original plans and specifications, unless other action is approved by the Owners, with the consent of their mortgagees, on Homes that have at least fifty-one percent (51%) of the votes in the Association. If the cost of such work exceeds the amount of the award, the additional funds required shall be assessed against the Homes which are, and will be, tenantable.

With respect to those Homes that may not be tenantable, the awards shall be paid as set forth herein, and the remaining portion of such Homes, if any, shall become part of the Common Areas. Upon the payment of such award for the account of an Owner, as provided herein, such Home shall no longer be a part of the Project, and the Fractional Interest of each remaining Owner in the Common Areas appurtenant to each remaining Home shall be recomputed on an equal basis.

If two-thirds (2/3) or more of the Homes are taken, or damaged by such taking, all damages and awards shall be paid to the accounts of the Owners of Homes so taken, as provided herein, and this Condominium Regime shall terminate upon such payment. Upon such termination the Homes and Common Areas shall be deemed to be regrouped and merged into a single estate owned in undivided interest by all Owners, as tenant in common, in the proportionate ownership interest previously owned by each Owner in the Common Areas. In accordance with the provisions of I.C. 32-1-6-28, by agreement of all Owners, and holders of all liens affecting any of the Homes or Common Areas or Limited Common Areas, the Property may be sold. In such instance, the Association shall record a notice setting forth such fact, or facts; and, upon the recording of such notice by the Associations' authorized officers, the entire premise shall be sold by the Association for all the Owners; free and clear of all interests therein held by the Owners by the provisions contained in this Declaration, the plans and By-Laws. The sales proceeds shall be apportioned between the Owners and mortgagees as their interests may respectively appear on the basis of each Owner's proportionate ownership interest in the regrouped estate. Any damages, awards, or sale proceeds provided in this paragraph to be paid to, or for, the account of any Owner by the Association shall be applied as set forth herein.

21. PROTECTION OF MORTGAGEE.

A. NOTICE TO ASSOCIATION. An Owner who mortgages his or her Home shall notify the Association, giving the name and address of his or her mortgagee. Each mortgagee shall be permitted to notify the Association of the fact that such mortgagee holds a deed of trust or mortgage on a Home. The Board shall maintain such information in a book entitled "Mortgagees of the Condominium Homes".

B. NOTICE OF DEFAULT; LAPSE IN INSURANCE. The Association shall notify a mortgagee in writing, upon written request of such mortgagee identifying the name and address of the mortgagee and the Home number, of any default by the mortgagor in the performance of such mortgagor's obligations, as set forth in the Declaration, which is not cured within sixty (60) days. The Association, upon written request, shall notify a mortgagee of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

C. EXAMINATION OF BOOKS. The Association shall permit mortgagee to examine the books and records of the Association upon request, but only pertaining to those facts contained therein affecting any valid interest of said mortgagee.

D. NOTICE OF DAMAGE OR DESTRUCTION. The Association shall furnish a mortgagee timely written notice of any substantial damage or destruction of any Home on which the mortgagee holds a mortgage if such loss exceeds One Thousand Dollars (\$1,000.00) and of any part of a Common Area if such loss exceeds Ten Thousand Dollars (\$10,000.00).

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

23. PHASES – CONTRACTABLE CONDOMINIUMS. The Project as shown on the Site Development Plan shall be completed in phases. Phase 1 of the Project shall consist of Home Numbers 1 through and including 21, as shown on the Site Development Plan together with the Common Areas and Limited Common Areas appurtenant thereto, and the Property of the Project comprising the same, the legal description of which is set forth on Exhibit “D” hereto. Phase II of the Project shall consist of Home numbers 22 through and including 57, as shown on the Site Development Plan together with the Common Areas and Limited Common Areas appurtenant thereto, and the Property of the Project comprising the same, the legal description of which is set forth on Exhibit “E” hereto. Phase III of the Project shall consist of Home numbers 58 through and including 83, as shown on the Site Development Plan together with the Common Areas and Limited Common areas appurtenant thereto, and the Property of the Project comprising the same, the legal description of which is set forth on Exhibit “F” hereto. JEFFERSON PLACE CONDOMINIUMS HORIZONTAL PROPERTY REGIME is a Contractable Condominium and shall be subject to the rights and limitations of such as defined in the Act, and specification, I.C. 32-1-6-12.2. Declarant, its successors and assigns, reserves the right and option to contract the Condominium and remove one (1) or more portions of the real estate comprising the Tract from the Condominium, subject to the following limitations:

- A. Upon commencement of construction of a Structural Unit located within Phase I of the Project, no portion of the real estate located within the Tract comprising said Phase I shall be withdrawn from the Project unless in accordance with the provisions of the Act and subject to approval of the Allen County Plan Commission.
- B. Upon commencement of construction of a Structural Unit located within Phase II of the Project, no portion of the real estate located within the Tract comprising said Phase II shall be withdrawn from the Project unless in accordance with the provisions of the Act and subject to approval of the Allen County Plan Commission.
- C. Upon commencement of construction of a Structural Unit located within Phase III of the Project, no portion of the real estate located within the Tract comprising said Phase III shall be withdrawn from the Project unless in accordance with the provisions of the Act and subject to approval of the Allen County Plan Commission.

D. The option of the Declarant, its successors or assigns, to contract the Condominium by removing from the Project the real estate comprising Phase II of the Tract may not be exercised until Home numbers 1 through and including 21 as shown on the Site Development Plan have been fully constructed and completed in compliance with the Home Floor Plans as recorded with respect thereto and are ready for occupancy, unless otherwise permitted by the Act and subject to the approval of the Allen County Plan Commission.

E. The option of the Declarant, its successors or assigns, to contract the Condominium by removing from the Project the real estate comprising Phase III of the Tract may not be exercised until Home numbers 22 through and including 57 as shown on the Site Development Plan have been fully constructed and completed in compliance with the Home Floor Plans as recorded with respect thereto and are ready for occupancy, unless otherwise permitted by the Act and subject to the approval of the Allen County Plan Commission, or unless such option to the contract the Condominium by removing from the Project the real estate comprising Phase III is made in conjunction with the exercise of the option of the Declarant, its successors or assigns, to contract the Condominium by removing from the Project the real estate comprising Phase II of the Tract.

F. The option of the Declarant, its successors and assigns, to contract the Condominium and remove therefrom the real estate comprising Phase II of the Tract shall be exercised within five (5) years from the date of the recording of this Declaration with the Recorder of Allen County, Indiana. Such option shall terminate sooner by commencement of construction of a Structural Unit within the real estate comprising Phase II of the Tract.

G. The option of the Declarant, its successors and assigns, to contract the Condominium and remove therefrom the real estate comprising Phase III of the Tract shall be exercised within seven (7) years from the date of the recording of this Declaration with the Recorder of Allen County, Indiana. Such option shall terminate sooner by commencement of construction of a Structural Unit within the real estate comprising Phase III of the Tract.

H. Each Phase subject to withdrawal from the Condominium may be withdrawn in whole, and not in part, by the recording of an amendment to this Declaration containing a legally sufficient description of the land being withdrawn and stating the fact of such withdrawal, and, upon withdrawal subject to the Act and the approval of the Allen County Plan Commission, shall be removed from the Project and no longer be subject to the JEFFERSON PLACE CONDOMINIUMS HORIZONTAL PROPERTY REGIME.

Upon the election by the Declarant, its successors and assigns, to contract the Condominium and remove one (1) or more portions of the real estate comprising the Tract from the Condominium, the Declarant, its successors or assigns, shall provide to each Owner within the Condominium written notification of any change in his, her or its respective

ownership interests in the Horizontal Property Regime within thirty (30) days of the recording of the amendment to the Declaration reallocating undivided interest in the Common Areas, pursuant to I.C. 32-1-6-7(c).

24. CONTRACTION – PUBLIC STREETS OR EASEMENTS. In the event Declarant, its successors or assigns, should elect to contract the Condominium and remove one (1) or more portions of the real estate comprising the Tract from the Condominium pursuant to the provisions of Paragraph 23 of this Declaration, Declarant shall have the right, without assent of the Home Owners or of the Association of Jefferson Place Condominiums, to dedicate Statesman's Way for use as a public street to the appropriate governmental authority then having territorial jurisdiction over the land upon which Jefferson Place Condominiums is situated. Each Owner, by accepting a deed to a Home and by occupying same, personally or by agents, tenants, or assigns, grants to Declarant, its successors, and assigns, a power of attorney for said Owner to so dedicate Statesman's Way. Should said governmental authority not agree, as part of said dedication, to maintain and keep repaired said public street, Declarant, its successors and assigns, shall take such action as may be necessary to subject that part of the real estate, originally comprising the tract, but removed therefrom by Declarant, for future assessment to cover the prorated costs for the maintenance of Statesman's Way. Such pro-ration of costs shall be calculated upon the amount of acreage into which each parcel of said real estate shall thereafter be subdivided in relationship to the total acreage of the original Condominium Tract. The Association shall share the future cost of such maintenance for Statesman's Way based on its prorated share with all of the parcels of real estate served by and connecting with Statesman's Way. All maintenance and repair determinations shall be made, at a meeting of the Owners and titleholders of all real estate originally being a part of this Horizontal Property Regime duly called therefore, by a majority vote of all such titleholders and Owners, such vote of each Owner or titleholder shall be directly proportional to the acreage of each parcel to the total acreage as originally constituted this Horizontal Property Regime, and any sum of money due, as a result of such vote, from the Owner or titleholder of any of the parcels of real estate served by Statesman's Way, shall be a lien, running with the land, upon the title to said real estate until paid in full, and, in the event of default shall bear interest at the statutory rate, to which may be added all costs of collection, including attorneys fees.

Should said governmental authority not accept the dedication of Statesman's Way as a public street, then the same shall be and remain a private street, and the cost of all future maintenance shall be prorated between JEFFERSON PLACE CONDOMINIUMS and the subdivided parcels of real estate which have been removed pursuant to the provisions of Paragraph 23 of this Declaration from the Condominium, and all provisions herein set forth for the determination of maintenance and repair of Statesman's Way shall apply. In such event, Declarant, its successors and assigns, reserves unto it a perpetual right and easement for purposes of ingress and egress over and along Statesman's Way for access from and to Engle Road or to any other public

thoroughfare to which it may connect for the benefit of the real estate which has been removed from the condominium pursuant to this Declaration. Said easement shall be for the use and benefit of Declarant, its successors and assigns, their invitees, and all public and quasi-public parties, including, by way of illustration, and not by way of limitation, fire, law enforcement, emergency, public utility, mail and delivery vehicles.

25. AMENDMENT OF DECLARATION. Amendments to this Declaration shall be proposed and adopted in the following manner:

A. NOTICE. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered.

B. RESOLUTION. A resolution to adopt a proposed amendment may be proposed by the Board of Directors or the Owners of at least a majority of homes.

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

D. ADOPTION. Any proposed amendment to this Declaration must be approved by vote of not less than seventy-five percent (75%) in the aggregate of the Owners voting thereon. In the event any Home is subject to a mortgage, the mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions of Article 12 hereof, but such mortgagee shall not have a vote thereon unless the proposed amendment will directly adversely affect its security interests. In such event the amendment, as proposed shall also require a favorable simply majority vote of any affected mortgagees before it may be considered adopted in affect.

E. SPECIAL AMENDMENTS. No amendment to the Declaration shall adopted which changes the Fractional Interest with respect to any Home or the applicable share of an Owner's liability for the Common Expenses, without the approval of one-hundred percent (100%) of the Owners, except as otherwise provided in Articles 19 and 20 of this Declaration.

F. RECORDING. Each amendment to the Declaration shall be executed by the President and Secretary of the Association, and shall be recorded in the Office of the Recorder of Allen County, Indiana, and such amendment shall not become effective until so recorded.

G. CORRECTION OF ERROR. Notwithstanding the foregoing, or anything elsewhere herein to the contrary, Declarant reserves, and shall have the continuing right, for a period of ten (10) years, without the consent of the Owners or any mortgagee to amend this Declaration or the By-Laws for the purpose of resolving or clarifying any ambiguities or conflicts herein, or correcting any inadvertent misstatements, errors, or omissions herein, or to comply with the requirements of any federal housing or mortgage association; however, no such amendment shall change the stated number of Homes or Fractional Interest in the Common

Areas attributable thereto, without the consent of all such Owners and affected mortgagees.

26. ACCEPTANCE AND RATIFICATION. All present and future Owners, mortgagees, tenants and occupants of the Homes shall be subject to, and shall comply with, the provisions of this Declaration, the Act, the By-Laws appended hereto, and the rules and regulations as adopted by the Board of Directors as each may be amended from time to time. The acceptance of a deed of conveyance, a contract for deed of conveyance, a lease, or the act of occupancy of any Home shall constitute an agreement that the provisions of this Declaration, any Supplemental Declaration, the Act, the By-Laws and any rules and regulation adopted pursuant thereto, as each may be amended from time to time, are accepted and ratified by such Owner, contract holder, tenant or occupant.

27. COSTS AND ATTORNEY'S FEES. In any proceeding arising because of failure of an Owner to make any payment required or to comply with any provision of this Declaration, the Act, the By-Laws, or the rules and regulations adopted pursuant thereto as each may be amended from time to time, the Association shall be entitled to recover from said Owner its reasonable costs, including attorney's fees, incurred in connection with such default or failure.

28. WAIVER. No Owner may exempt himself from liability for his or her contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or Limited Common Areas or by abandonment of his or her Home.

29. SEVERABILITY CLAUSE. The invalidity of any covenant, restriction, condition, limitation, or other provision of this Declaration or the By-Laws filed herewith shall not impair or affect in any manner the validity of the rest of this Declaration or the attached By-Laws.

30. PRIVATE STREETS. The platted streets, known as Statesman's Way, Charlottesville Row, Octagon Square, Palladio Square and Piazza Circle shall be private easements for the benefit of all site Owners in JEFFERSON PLACE CONDOMINIUMS, provided, however, that the provisions of Paragraph 24 hereof shall, under all events and circumstances, prevail as relates to Statesman's Way. The Developer grants, dedicates and conveys to each lot owner, their successors in interest, their invitees, and all public and quasi-public parties, including by way of illustration and not by way of limitation, fire, law enforcement, emergency, school, public utility, mail and delivery vehicles, a perpetual right and easement for purpose in ingress to, and agrees from, JEFFERSON PLACE CONDOMINIUMS. The repair of said streets and right-of-way shall be borne equally by the site Owners in JEFFERSON PLACE CONDOMINIUMS as provided in Paragraph 15.

## PARKING REGULATIONS

At the inception of Jefferson Place, it was apparent that parking was going to be a problem because of the density of the condos. There was a verbal understanding that there be no parking on the streets by residents. On street parking would of course, be allowed by guests. Disregard of this agreement during the past several years has made it necessary that a formal regulation defining the original agreement be instituted. \*

Regulation: Residents are to park their personal vehicles in their garage or their driveway. On street parking by guests is allowed for reasonable periods of time.

At no time should parked vehicles block the street and inhibit the passage of emergency vehicles, service providers, and of course, other residents.

If a resident fails to comply, a written notice will be issued. If this notice is ignored, the Board may have the vehicle towed.

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Under Section 6.03: RIGHT OF BOARD TO ADOPT RULES AND REGULATIONS:

The Board, by majority vote, may promulgate such additional rules and regulations, and subsequent amendments thereto, regarding the operation of the Property, including, but not limited to, the use of the Common Areas and Limited Common Areas, as it may from time to time deem necessary, and the Board shall cause copies of such rules to be delivered or mailed promptly to all Owners.

Under Article VI, Section 6.01 Restrictions: K. All Owners and members of their families, their guests or invitees, and all occupants of any Home or other persons entitled to the same and to use and enjoy the Common Areas or any part thereof, shall observe, and be governed by, such rules and regulations as may from time to time be promulgated and issued by the Board governing the operations, use and enjoyment of the Common Areas and Limited Common Areas.