

**DECLARATION OF CONDOMINIUM OWNERSHIP AND  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
CREEKSIDE CONDOMINIUMS**

This DECLARATION is made by Eggebeen Builders, Inc. a Wisconsin corporation, the date hereinafter stated, for the purpose of subjecting certain real property and the improvements thereon to the provisions of the Condominium Ownership Act (Chapter 703, Wisconsin Statutes), and for the additional purpose of imposing certain covenants, conditions and restrictions upon such property.

**RECITALS**

Section 1. Ownership: Eggebeen Builders, Inc. a Wisconsin corporation, of 1601 North Eighth Street, Sheboygan, WI, hereinafter referred to as "Declarant", is the owner of the subject property.

Section 2. Name of Condominium: The property shall be known as Creekside Condominiums, and shall hereinafter be referred to as the "Project", and shall consist of three (3) phases being located on U.S. Highway 141 and Camelot Boulevard, Sheboygan, Sheboygan County, Wisconsin.

Section 3. Condominium is Expandable: Declarant shall construct the Project in three (3) phases. Phase I shall consist of two (2) buildings containing four (4) units each or eight (8) in total. Phase II shall consist of nine (9) buildings containing four (4) units each or thirty six (36) units in total. Phase III shall consist of a maximum of twenty-three (23) buildings containing four (4) units each, for a project maximum of ninety two (92) units.

Section 4. Legal Description of Property: See Attached Exhibit "A".

Section 5. Covenants, Conditions, and Restrictions: Certain covenants, conditions, and restrictions upon the use or uses of the condominium property are set forth throughout this Declaration.

**CONDOMINIUM PLAN AND  
COVENANTS, CONDITIONS AND RESTRICTIONS**

NOW THEREFORE, the Declarant hereby establishes the following plan for condominium ownership of the real property described above and the buildings and improvements hereafter located thereon pursuant to the provisions of the Condominium Ownership Act, and hereby declares that all said property shall be held, occupied, used, transferred, sold and conveyed subject to the terms, conditions and restrictions of this Declaration.

**ARTICLE I  
DEFINITIONS**

As used in this Declaration, or in any amendment thereto, unless otherwise provided or unless the context requires otherwise, the following words/terms shall have the meaning set forth below:

Section 1.1 "Association": shall mean and refer to the Creekside Owners' Association, Inc., a nonstock, nonprofit corporation, organized under Chapter 181 of the Wisconsin Statutes, its successors and assigns.

Section 1.2 "Unit Owners": shall mean, refer to and include every record owner, whether one or more persons or entities, of a simple title (defined herein for clarification as including land contract sellers, but excluding those holding record title or a similar interest merely as security for the performance of an obligation) or any unit described in this Declaration, and may also be referred to in this Declaration as "Owner".

Section 1.3 "Condominium Property": shall mean and refer to the real property described herein, together with the buildings, improvements, and structures thereon and all easements, rights and

appurtenance's belonging thereto.

Section 1.4 "Building": shall mean, refer to and include each of the several detached structures identified herein and also depicted on the condominium plat filed in the office of the Register of Deeds for Sheboygan County, Wisconsin.

Section 1.5 "Unit": shall mean, refer to and include each part of the condominium property designated as and intended for residential use, including one or more cubicles of air at one or more levels in a building.

Section 1.6 "Living Area": shall mean, refer to and include that part of a unit excluding the garage and storage areas, if any.

Section 1.7 "Common Elements": shall mean, refer to and include all of the condominium property, except its units as defined in Article 1, Section 1.5 and Article 4, Section 4.3 of the Declaration of Condominium Ownership and Covenants, Conditions and Restrictions of Creekside Condominiums.

Section 1.8 "Limited Common Elements": shall mean, refer to and include those common elements designated in the Declaration or the condominium plat as reserved for the use of a certain unit, units or buildings to the exclusion of other units or buildings.

Section 1.9 "Common Expenses" or "Common Surpluses": shall mean, refer to and include the expenses and surpluses of the Association.

## ARTICLE II PHASES CONSTRUCTION

Section 2.1 Declarant Reserves Right to Expand: Phase I of Creekside Condominiums shall consist of two (2) four unit buildings: Building I being of the "Lexington" design and Building II being of the "Manor House" design. Phase II will consist of nine (9) four unit buildings of the "Williamsburg" design. Phase III will consist of twenty three (23) buildings of four units each of either the "Lexington", "Manor House", or "Vintage Manor House" design or a combination of such designs. Declarant specifically reserves construction of Phase II and Phase III and by this Declaration and this reservation, does not commit itself to initiate or complete construction of either or both phases.

Section 2.2 Time Limits on Reservation: Declarant shall have a right to expand the condominium by adding Phases II within two (2) years of the date of this Declaration and shall have the right to expand the condominium by adding Phase III for three (3) years from the date of this Declaration. By excavating for a foundation for any building in a new phase, Declarant elects to exercise its reservation to proceed with that phase. The affect of that exercise of Declarant's reservation as to ownership interests, common expenses and other matters, is more particularly set forth herein below.

## ARTICLE III DESCRIPTION AND IDENTIFICATION OF BUILDINGS, UNITS, COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

### Section 3.1 Description of Buildings:

#### **“Lexington”**

The “Lexington”, when constructed, will consist of a two-story wing, and a one-story wing, with a full basement, and attached four-car garage, and be of a frame construction with a poured concrete foundation and basement and may have a variety of exterior surfaces, including, but not limited to wood, aluminum or brick veneer. There will be four separate living units in the “Lexington” as more particularly described hereinafter below.

#### **“Manor House”**

The “Manor House” building, when constructed, will consist of two stories, with attached four-car garage, and a basement, and will be a frame construction, with a poured concrete foundation basement, with either aluminum, wood or brick veneer siding. Each building will consist of four separate living units more particularly described hereinafter below.

#### **“Williamsburg”**

The “Williamsburg”, when constructed, will consist of two stories and basement and will be of a frame construction with a poured concrete foundation and basement, with wood or aluminum exterior siding. Each building will consist of four separate living units more particularly described hereinafter below.

### Section 3.2 Description of Units:

#### **“Lexington”**

Each of the four units situated in the “Lexington” shall be separately designated by an identifying letter (A, B, C, and D) as set forth in Exhibits A, B, C. Unit A shall be known as the “Barrier Free Environment” unit and shall occupy the one story portion of the building and shall further consist of a separate basement area and garage. Units B and C shall be known as the “Town House” units and shall be adjacent units occupying the portion of the two-story building not located above the garage, with living area on both floors and further with separate basement and garage areas. Unit D shall be known as the “Penthouse” unit and shall occupy that portion of the second story area over the garage and shall include a separate garage area, but shall not include any storage area. Access within each unit to the exterior of the building and to the various levels of the unit shall be by means of interior stairways and/or doors, except that the garage for Unit D may only be entered from the outside of the building.

#### **“Manor House”**

Each of the four units situated in the “Manor House” building afore-described shall be separately designated by an identifying letter (A, B, C, and D) as set forth in Exhibits D, E, and F. Said Exhibits show the immediate limited common elements to which each unit has access to a corridor or a stairway as well as an exterior door. Living portion of each unit shall be wholly contained upon one of the two floors, with two units occupying each floor. In addition, each unit shall consist of a garage and storage area as designated herein.

#### **“Williamsburg”**

Each of the four units situated in the “Williamsburg” shall be separately designated by an identifying letter (A, B, C, and D) as set forth on Exhibits G, H, and I. Units shall have access to a corridor and/or a stairway as well as exterior door through the designated limited common elements as set forth herein. The living area of each unit shall be wholly contained on one floor within the building and in addition will consist of the area designated for storage in the basement of the building.

Each unit shall have either electric or gas heat, electric or gas hot water heater, separately metered water, gas and electricity and shall include a cooking stove and refrigerator. The living area of each unit shall be carpeted, except that there shall be vinyl flooring in the kitchen and bathrooms of each unit, and there shall be no carpeting on any interior stairway leading from the first floor of a unit to the basement. The boundaries of each unit shall be as set forth in Article IV, Section 4.3 below. If any of the common or limited common elements shall encroach upon any unit, or any unit shall encroach upon any other unit whereupon any portion

of the common or limited common elements as a result of the construction of the building, or as a result of settling or shifting of the building, a valid easement for the encroachment and for its maintenance shall exist as long as the building stands. In interpreting the exhibits attached hereto, the existing physical boundaries of a unit or a unit which is constructed in substantial compliance with the plan thereof, shall be conclusively presumed to be within its boundaries rather than the dimensions expressed in the attached exhibits, regardless of settling or lateral movement of the building and regardless of minor variances between boundaries shown on the attached plans and those of the building.

Section 3.3 Description of Common Elements: The location of the Phase I and proposed Phase II common elements on the condominium property are indicated in Exhibits A thru K, inclusive, and also designated on the condominium plat filed in the office of the register of Deeds for Sheboygan County, Wisconsin, and the items of property and facilities included within the meaning of said term are as stated in Section 1.6 of this Declaration. The owners of each unit shall have an undivided interest as tenants in common in the common elements in such ratio as hereinafter stated in this Declaration. Common elements located within the proposed Phase III shall be designated by the plat of said proposed Phase if that Phase becomes a part of the condominium property and may further be designated on any amendment to this declaration that may be made concerning said Phase III.

Section 3.4 Description of Limited Common Elements: The limited common elements are part of the common elements of the project, but are permanently assigned and limited to the exclusive use of designated units as follows:

**“Lexington”**

Area A: The sun deck attached to and adjacent to Units B and C, which deck is accessible by a door from each of said units as designated on Exhibit A, shall be for the mutual use of Units B and C except as the Unit Owners may otherwise agree as to those areas on said deck that shall be for the exclusive use of one unit or the other, but in no manner shall the owner of either unit obstruct the right of the other unit owner to access on said deck and access over said deck for purposes of ingress and egress from his unit.

Area B: The sun deck attached to and adjacent to Units B and C which deck is accessible by a door from each of said units as designated in Exhibit B, and the dividing line between the units shall be the dividing line as to the area of said deck that each respective unit shall have exclusive use of.

Area C: The sun deck attached to Unit D, which deck is accessible by a door from said unit, as designated on Exhibit B, and said deck shall be for the exclusive use of said unit.

Area D: The porch and steps adjacent to the entry doors for each of the respective units which steps and porch shall be for the exclusive use of said unit.

Area E: The driveway area in front of each of the respective unit's garage which shall be for the exclusive use and benefit of that unit for driveway purposes. The parking areas adjacent to the building but not located in front of garages as designated on Exhibit K are for the exclusive use of guests of the unit owners in said building.

**“Manor House”**

Area A: The patio area adjacent to Units A and B on to which patio each of the units has separate direct access as designated on Exhibit D.

Area B: The sun deck attached to and adjacent to each of Units C and D which decks have direct access from each unit by a door as designated in Exhibit E.

Area C: The entry way, stairways, hallways and adjacent areas as designated on Exhibits D, E and F, which areas are limited to the exclusive use of the units located in each building.

Area D: The driveway area in front of each of the respective unit's garage which shall be for the exclusive use and benefit of that unit for driveway purposes. The parking areas adjacent to the building but not located in front of the garages are for the exclusive use of guests of the unit owners in said building.

### **"Williamsburg"**

Area A: The sun deck attached to and adjacent to each of Units C and D which sundeck has direct access by a door from each unit as designated on Exhibit H.

Area B: The porch stoop and entry way attached to and adjacent to each of Units A and B, which stoop has direct access by a door from said unit as designated on Exhibit G.

Area C: The entry way, stairways and adjacent areas as designated on Exhibit G, H, and I in each building which area is limited to use of the units located in such building.

Area D: The parking stalls designated on Exhibit K which parking places shall be for the exclusive use and benefit of the designated unit owner. In addition, the undesignated parking stalls are for the use of guests of unit owners.

Area E: For buildings 3 through 9 only, one stall as designated in the four car garage designated and reserved for each of said buildings, said garage being for the use of the unit owner so designated.

The limited common elements designated herein shall be assigned to the exclusive use of the particular unit and units designated and limited common elements shall be assigned by the Declarant to a unit purchaser and such conveyance shall designate such assignment. Thereafter the unit to which each of the limited common areas was assigned shall have the exclusive (mutual) use thereof and any subsequent conveyance of title to such unit shall pass with it as an appurtenance thereto the exclusive (mutual) use herein provided for. The use of the limited common elements afore described shall be restricted to the purpose for which they are herein designated and no owner shall use, add to, alter, modify or in any way change such limited common element in any manner contrary to provisions of this Declaration or the By-laws of the Association or any rules or regulations as may from time to time be adopted by the Association.

The limited common elements designated shall be subject to access under the provisions of this Declaration, the By-Laws of the Association or any rules and regulations as may from time to time be adopted by the Association, such access including but not limited to the purposes of maintenance, inspection and repair.

## **ARTICLE IV PROPERTY RIGHTS**

Section 4.1 Percentage of Undivided Interest in Common Elements: The fraction of undivided interest owned in the common elements (including the limited common elements, being a part hereof) and facilities appertaining to each unit and its owners in Phase I is one-eighth (1/8), which interest shall be conveyed with each unit. Upon commencement of construction, as that term is meant herein, with the time limit reserved by Declarant of Phase II, the fraction of undivided interest owned in the common elements (including the limited

common elements, being a part hereof) and facilities appertaining to each unit and its owners is one one-forty-fourth (1/44), which interest shall be conveyed with each unit. Upon the commencement of construction as that term is meant herein, of Phase II, the interest in the common elements shall refer to the common elements located within both Phases I and II but shall not include Phase III. Upon commencement of construction, as that term is meant herein, with the time limit reserved by Declarant, of Phase III, the fraction of undivided interest owned in the common elements (including the limited common elements, being a part hereof) and facilities appertaining to each unit and its owners is one one-hundred thirty sixth (1/136), which interest shall be conveyed with each unit. The undivided interest in the common elements as referred to herein upon completion of Phase III shall be an undivided interest in the common elements located in all three phases of the condominium property. Declarant acknowledges that the various units may be of different square footage, different construction, different costs and different assessed valuation, but has designated each unit regardless of such factors as having an equal interest in the common elements.

Further by this amendment the Declarant by its appropriate officers as set forth herein below, attaches hereto and incorporates herein as Exhibit "B" the parking and street layout for Phase III of Creekside Condominiums, particularly setting forth the guest and visitor parking areas for said phase of Creekside Condominiums, pursuant to said exhibit.

Section 4.2 Status and Ownership of Units: Each unit, together with its undivided interest in the common elements and facilities shall constitute real property for all purposes, and the owner(s) of each unit shall be entitled to the exclusive ownership and possession thereof.

Section 4.3 Boundaries of Unit: The boundaries of the residential living elements of each unit shall be the underside of the finished interior surface of the floors, ceilings, perimeter and partition walls, such finished surfaces being included within the unit. In addition, as may be applicable, the unit may contain a garage and/or storage area(s). The interior space of such areas shall be included in the unit utilizing the same criteria set forth in this section as applies to the residential living element of each unit. All space between the underside of the interior surface of the floors, ceilings, perimeter or partition walls, including all electrical, plumbing, heating, and air conditioning, and other structural installations shall constitute part of the common elements.

An individual unit living area shall also include any and all "Florida Rooms" or other enclosures immediately adjacent to an individual unit and from which access is gained. These enclosed living areas are built on patio or deck areas that would otherwise be considered "limited common elements" but the enclosing of said area then includes it in the living space of that individual unit to which it is attached. Henceforth, all repairs and maintenance of these areas are the responsibility of the owner of that individual unit.

Section 4.4 Rights in Common Elements: Each owner, together with his family and guests, and tenants shall use the common elements for all purposes for which it was designed and intended. No owner, his family and guests or tenants may hinder or encroach upon the lawful rights of any other owner, such as his family and guests or tenants with respect to such use, with the exception of the limited common elements as described in the Declaration. Such rights to use the common elements shall be subject to all restrictions and limitations as set forth in this Declaration or in the By-Laws of the Association, and the rules and regulations adopted pursuant thereto. The rights in common elements shall not commence as to Phases II and/or III until unit owners have an interest in said common elements as set forth through and above in Section 4.1.

Section 4.5 Easement of Enjoyment: Every owner shall have a non-exclusive right to an easement of enjoyment in and to the common elements, including, but not by way of limitation, a right and easement of ingress and egress over, upon and across the common elements necessary for access to such owner's unit. These rights and easement of enjoyment shall be appurtenant to and pass with the title to every unit, subject to the right of the unit owners to mortgage their interest in the common elements.

Section 4.6 Association Easement for Utilities and Services: The Association shall have the necessary easement or easements for utilities located on the condominium property, including, but not limited to, water lines, outlets and meters for water service to be used for watering the condominium grounds, and any other purpose determined by the Association to be appropriate as well as a power meter and/or lines for registering and distributing electricity used to light the condominium property and, further, the Association shall have the necessary easements of access to said utilities for whatever maintenance, use or repairs necessary. In addition, if other utilities are designated as common by the Association, the Association, its agents and employees shall have an easement for inspection, maintenance, and repair of all such easements and

property as may be reasonable to accomplish the purpose of the Association.

Section 4.7 Other Easements: (The following specific easements apply only to Phases I and II. Declarant shall file an Amendment to this Declaration designating the easements, if any, apply to Phase III)

- A. A ten (10) foot utility easement affecting the north ten (10) feet of Lots Eighty-four (84) and Eighty-Five (85), Plat of Creekside, as shown on attached Exhibit J, and more particularly described and set out in the Condominium Plat recorded in the office of the Register of Deeds for Sheboygan County, Wisconsin.
- B. Subject to a forty-two (42) foot building set back line adjacent to and parallel with the right of way of U.S. Highway "141" (Business) as designated in the Plat of Creekside recorded in the office of the Register of Deeds for Sheboygan County, Wisconsin, in Volume 13 of Plats on Pages 55/57.
- C. Any other utility easement present now or necessary in the future as may be granted for gas, water, electrical, telephone services and sewer, whether or not evidenced by an instrument in writing of public record.
- D. Should any of the afore described easements hereafter be required to be evidenced by written instrument, Declarant reserves the right to convey same in its name alone, which conveyance shall be binding upon each owner of any unit on the condominium property by the acceptance of any right, little or interest therein.
- E. All the easements described in this section and all rights appurtenant thereto shall run with and bind the land in perpetuity and shall inure to the benefit and be binding upon the Declarant, its successors and assigns, and upon all parties having any (legal or equitable) right, title or interest in the condominium property, their respective heirs, personal representatives, successors and assigns.

## **ARTICLE V MEMBERS AND THEIR VOTING RIGHTS**

Section 5.1 Members: Every record owner, whether one or more persons or entities, of a fee simple title (defined herein for clarification as including land contract sellers, but excluding those holding record title or a similar interest merely as security for the performance of an obligation) to a unit, whether existing or proposed (as described herein), shall be a member of the Association which shall administer the common areas.

Section 5.2 Voting Rights: Each unit, whether existing or proposed shall be entitled to one vote only. If an owner shall own more than one unit, such owner shall be entitled to one vote for each unit owned. If there exists more than one owner of a unit, then they shall determine between themselves who has the right to cast the one vote or may divide their vote in relationship to their ownership interest in the unit, but in no event shall the owners of any one unit, if there be more than one, have more than one vote.

Proposed units shall include those units proposed in Phase II and Phase III, except if Declarant does not exercise its option as to either of the phases, than those units subject to the exercise of that option shall no longer be considered proposed units. (See Section 2.2 above as to the exercise of the option.)

The Declarant recognized that there are variances in the units which relate to value; however, after careful consideration of the factors relevant to maintenance, replacement in value, Declarant believes that the foregoing formula of ownership and voting is fair and equitable as well as the most efficient for purposes of administration.

Section 5.3 Proxy on Behalf of Owner or Owners: In addition to the owner or owners exercising their voting right under Sec. 5.2 above the unit owner or owners may vote by proxy and such proxy shall be entitled

to cast the vote appurtenant to such unit at all meetings of unit owners. The proxy is effective only for a maximum period of one hundred eighty (180) days following the issue thereof unless granted to a mortgagee or lessee. The designation of any proxy shall be made in writing to the Secretary of the Association and shall be revocable at anytime by a written notice to the Secretary by the owner or owners so designating.

**ARTICLE VI  
CONVENANT (AND LEIN) FOR ASSESSMENTS**

Section 6.1 Assessments and Lien and Personal Obligation Therefor: Declarant, for each unit (whether existing or under construction) owned on the condominium property, hereby covenants and agrees to pay each owner of any unit in Phase I, by acceptance of any right, title or interest therein, is deemed to covenant and agrees to pay to the Association monthly assessments, special assessments for capital improvements and building assessments, which shall be established and collected as hereinafter provided in this Declaration and/or the By-Laws of the Association. The aforementioned assessments, together with interest thereon (at the legal rate) and the expenses and reasonable attorney's fees incurred in the collection thereof, shall be and constitute a continuing lien in favor of the Association upon the units(s), and the undivided interest in the common elements and facilities appurtenant thereto, against which such assessments if made, which lien shall arise and run from the time a Certificate of Lien is filed in the office of the register of Deeds for Sheboygan County, Wisconsin, or other appropriate place according to law, by authority of and at the direction of the Board of Directors of the Association. Such Certificate of Lien shall contain such information as is necessary to properly identify the unit against which the lien exists, the record owners thereof and the amount of the lien claim, and shall be signed by any officer of the Association. A lien for assessments, as provided for herein, may be foreclosed as provided in Section 703.16 of the Wisconsin Statutes. In addition to the foregoing, such assessments, together with interest thereon (at the legal rate) and the expenses and reasonable attorney's fees incurred in the collection thereof, shall be a personal obligation of the owner(s) of the unit against which assessed at the time such assessment (or any installment thereof) is due, and such personal obligation shall pass to the successors in title (except for mortgagees, their successors and assigns, and other purchasers who obtain title to the unit as a result of a first mortgage foreclosure) to such unit, and each owner of any unit, by acceptance of any right, title or interest therein, is deemed to assume the obligation to make such payment.

Should the Declarant exercise its option(s) as to Phase II and/or Phase III, then assessments shall be reallocated by adding to the units available for assessment those units for which an occupancy permit has been granted by the municipality. The first of the month following the date of issuance of the occupancy permit as to any unit, shall be the date the readjustment for assessments and the count made of units against which assessments will be made.

Section 6.2 Purposes of Assessments: The assessment levied by the Association shall be used to enhance the property value, to promote the recreation, health, safety and welfare of the unit residents, and for the maintenance and improvement of the condominium property. Subject to the provisions following, assessments shall be used to pay the common expenses of the Association for such items, but not by way of limitation, as: general maintenance service of the common elements (and facilities appurtenant thereto) and Association property; liability, fire and extended coverage insurance premiums for the common elements; utility charges for any part of the condominium property not individually metered to units; lawn care, landscaping, trash services, snow removal, repair, maintenance and operation of the common elements, facilities and Association property. Subject to the provisions of Section 6.3 following, special assessments for capital improvements shall be used to defray, in whole or in part, the common expenses for the costs of reconstruction, repair or replacement of capital improvements on the common elements or Association property, and the construction or purchase of new capital improvements, but may be levied upon only the affirmative vote of sixty-seven (67%) of the unit owners present and voting in person or by proxy at a meeting duly called for that purpose in accordance with the provisions of the By-Laws of the Association, except as to repair and reconstruction after damage not in excess of Twenty Thousand (\$20,000) Dollars for which the Board of Directors is authorized to, and shall, arrange such repair and reconstruction as set forth in greater detail hereinafter.

For the purposes of this paragraph, the start of construction in either Phase II or Phase III is not considered a capital improvement.

Declarant shall be responsible for the installation of sewer, water and street in Phase II and III upon exercising of its option herein, and such costs shall not be considered assessments of the condominium. Special assessments later imposed by a municipality may be treated as assessments herein.



Section 6.3 Common Expenses (and Surplus); Payment of Annual Assessment: Approximately 65% of the total annual estimated budget shall be shared on an equalized basis with the remaining 35% calculated of a square footage basis. Consequently, 65% of the assessment charged to a living unit shall be on a equalized basis, and the remaining 35% shall be on the basis of the number of square feet in said unit's living area. An individual unit's living area is defined in Section 1.5 and 1.6. The square footage of each unit shall be rounded off to the nearest one hundred. (Example: 949 square feet = 900; or 951 square feet = 1000) The aforementioned percentages may be subject to change as circumstances require. For example, as the buildings age, more funds may be required for maintenance and repair. An exception to the above rule is: units having municipal trash pick-up based on the actual cost of this service. An additional refinement shall be the establishment of three separate bookkeeping accounts for each of the three types of buildings in the Association (1. Manor Houses 2. Williamsburg's 3. Lexington's) from which expenses which are unique for each particular type of building shall be paid. (For example: Manor House hallway cleaning and/or redecorating.)

Therefore, the total square footage of all units subject to the annual assessment or a portion thereof, shall be first determined, and a factor developed as to cost per square foot and then distributing that cost based upon the number of square feet among the appropriate unit owners as an assessment applicable to that unit.

Section 6.4 Date Annual Assessments Commence: The Annual assessments provided for above shall commence as to all units in Phases I, II and III on July 1, 1983, and shall be due and payable to the Association each year thereafter on the same date. The annual assessment (or applicable part thereof) shall apply to any building in Phases I, II and III as set forth in Section 6.1 and shall commence on the date of occupancy, or at such time as an occupancy permit is issued for any unit, whichever event occurs first. The annual assessment may be paid in monthly installments, provided, however, that any annual assessment paid in monthly installments shall have added thereto a service charge equal to 12% of the annual assessment, said service charge being payable in 12 equal monthly installments contemporaneous with the monthly installment of the annual assessment. Assessment payments that are delinquent by thirty (30) days shall be charged a late payment fee of three (\$3.00) dollars. Special assessments as provided for in Section 6.1 shall be considered delinquent if not paid within sixty (60) days of receipt of notification of the Special Assessment. An additional charge of ten (10%) of the Special Assessment will be added after sixty (60) days. Should the annual assessments be determined insufficient to pay the common expense for such levied, the Board of Directors of the Association may increase the amount thereof and thereupon shall give written notice of such action to unit owners.

Section 6.5 Disposition of Excess Assessments: In the event the Board of Directors determines that excess assessments have been made or assessed to the unit owners, the Board of Directors may repay those excessive assessments or credit all or a portion of excessive assessments to the next annual assessment. Excessive assessments would be those assessments collected or due for which there are no existing or projected common expenses within a one year period, necessitating the payment of such funds or for which no specific contingency exists. The Board of Directors may make such repayments in their discretion, with due regard for past payment pattern and future needs. Determination as to which unit owner shall be eligible for a distribution of excessive assessments shall be based upon the same criteria as whether or not an assessment shall be applied to a unit, including prorations for part of one year.

Section 6.6 Certification of Status of Assessments: The Association shall furnish, upon request of a unit owner or such persons who have a bona fide interest in the status of such assessments, a Certificate signed by an officer (other than an owner of the unit for which requested) of the association setting forth on a specified date the amount of unpaid or excess assessments on a specified unit.

Section 6.7 Remedies of Association of Non-payment of Assessments: In addition to the right of the Association to foreclose a lien for non-payment of assessments due and owing, an action at law against the owner(s) personally obligated to pay same may be brought by the Association. No owner may waive or otherwise escape liability for the payment of assessments by non-use of any of the common elements or by abandonment of his, her and/or its units.

Section 6.8 Priority of Lien: A lien for assessments shall be prior to all other liens except only (a) liens of general and special taxes. (b) all sums unpaid on a first mortgage recorded prior to the making of such assessments, and (c) mechanics' (construction) liens prior to the making of such assessment, as provided in Section 703.16 of the Wisconsin Statutes.

**ARTICLE VII  
DAMAGE AND DESTRUCTION OF PROPERTY**

Section 7.1 Damage and/or Destruction: In the event the condominium or any of the buildings thereon is destroyed or damaged in an amount in excess of Ten Thousand (\$10,000) Dollars, action by the Association by a vote of more than sixty-seven (67%) of the unit owners present and voting in person or by proxy taken within ninety (90) days after such damage or destruction shall be necessary to determine to rebuild, repair, restore or sell the property as more fully set forth in the By-Laws of Creekside.

Section 7.2 Repair and Reconstruction After Damage: In the event of any damage to or destruction of the property or any building thereon, as a result of fire or other casualty or otherwise in the amount of Ten Thousand (\$10,00) Dollars or less, the Board of Directors is authorized to and shall arrange for the prompt repair and reconstruction, but not including any wall, ceiling or floor decorations or coverings or other furniture, furnishing, fixtures or equipment installed by unit owners in the units, and the board of Directors or the Insurance Trustee, as the case may be, shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and such reconstruction is not in excess of the appropriate progress payments. Any cost of such repair and reconstruction in excess of the Insurance proceeds shall constitute a common expense, and the Board of Directors may assess all unit owners for such deficit as part of the common expense.

By acceptance of the Deed to his unit, each unit owner shall be deemed to have consented to the foregoing authorization and direction for repair and reconstruction. If, notwithstanding the foregoing provisions, such a determination is submitted to the Board of Directors to the vote of the association, then the affirmative vote of the unit owners having more than five tenth (0.5%) percent of the authorized votes of all units owners, shall be sufficient to determine to repair and reconstruct.

**ARTICLE VIII  
ARCHITECTURAL CONTROL**

No building, fence, wall or other structure shall be commenced, erected or maintained upon the condominium property, nor shall any addition, change or alteration be made to or on the building exteriors until the plans and specification showing the nature, kind, shape, height, materials, color and location thereof shall have been submitted to and approved by the Board of Directors of the Association. In the event the Board of Directors fails to approve such plans and specifications within thirty (30) days of their submission, such plans and specifications shall be deemed to have been disapproved.

**ARTICLE IX  
MAINTENANCE AND REPAIR**

Section 9.1 All maintenance and repairs, effected within the boundaries of the residential living elements of each unit as defined in Article I, Section 1.5 and Article IV, Section 4.3 of the declaration of Condominium Ownership and Covenants, Conditions and Restrictions of Creekside Condominiums, including any glass in window or doors that may adjoin such unit, even though said windows and doors might otherwise be considered condominium property shall be made by the unit owner and at the expense of the unit owner. In addition, each unit owner shall be responsible for the repairs and costs of repairs for all damages to any other unit or any common or limited common elements and facilities resulting from the negligence, misconduct, or misuse of any unit owner, the occupants of his or her unit, or his or her invites.

Section 9.2 All maintenance, repairs and replacements provided for in Article VI set forth above to the common and limited common elements, whether located inside or outside of the building or the units (unless necessitated by the negligence, misuse or neglect of a unit owner(s), in which case such expenses shall be charged to such unit owner(s), shall be made by the Board of Directors and be charged to all unit owners as a common expense as set forth in Article VI above.

Section 9.3 Declarant (developer) shall bear the responsibility of maintenance repair as to any building (units) under construction for which an occupancy permit has not yet been issued by the municipality.

## **ARTICLE X USE RESTRICTIONS**

Section 10.1 Residential Use: Each unit is intended for and its use shall be restricted to a single family residence only, occupied by the owner(s) of such unit. Exceptions and special rules relating to occupancy are set forth in detail in the By-Laws of the Association or any rules established by the Association that may be permitted by the By-Laws.

Section 10.2 No nuisance shall be allowed on the property nor shall any use or practice be allowed which is a source of annoyance to its residents or interferes with the peaceful possession or proper use of the property by its residents.

Section 10.3 No signs of any kind shall be displayed to public view on the condominium property except those approved and authorized in advance by the Board of Directors of the Association.

Section 10.4 Additional Rules and Regulations: In addition to the foregoing, the association may from time to time adopt reasonable rules and regulations pursuant to the By-Laws of the Association which regulations impose additional use restrictions on the condominium property, including but not limited to restrictions relating to the keeping of pets upon the condominium property and the placement of furniture or other items with the limited common or common elements.

## **ARTICLE XI INSURANCE**

Section 11.1 Property Insurance: The Board of Directors shall be required to obtain and maintain fire insurance with extended coverage, vandalism and malicious mischief endorsements, or other appropriate insurance coverage, insuring all condominium property, but not including furniture, furnishings or personal property owned by or located in units. Such insurance shall cover the property and shall name as insured the Association, the Board of Directors, the unit owners and their mortgagees as their interest may appear and such insurance shall be in an amount equal to not less than Eight (80%) percent of full replacement value of the buildings without deduction for depreciation. Coverage shall be for the greatest value obtainable through due diligence of the Association in its attempts to obtain insurance coverage. Each policy shall provide that proceeds shall be payable to the board of Directors or an insurance trustee as may be provided for in the By-Laws of the Association as trustee for all unit owners and their mortgagees as their interest may appear.

Section 11.2 Payment of Loss: All such policies shall provide that adjustment of loss shall be made by the Board of Directors and that the net proceeds thereof, if Ten Thousand (\$10,000) Dollars or less, shall be payable directly to the Board of Directors, and if more than Ten thousand (\$10,000) Dollars, shall be payable to the Board of Directors or an insurance trustee as may be provided for in the By-Laws of the Association.

Section 11.3 Policy Requirements: All policies of physical damage insurance shall contain waivers of subrogation and waivers of any defense based on co-insurance or of invalidity arising from any acts of the insured, and shall provide that such policies may not be cancelled or substantially modified without at least thirty (30) days prior written notice to all of the insured, including all mortgagees of units. Duplicate originals of all policies of physical damage insurance and of all renewals thereof, together with proof of payment of premiums, shall be delivered to all mortgagees of units at least ten (10) days prior to expiration of the then

current policies. Prior to obtaining any policy of fire insurance or any renewal thereof, the Board of Directors shall obtain an appraisal from a fire insurance company or otherwise of the full replacement value of the buildings including all of the units and all of the common and limited common elements without deduction for depreciation, for the purpose of determining the amount of fire insurance to be affected pursuant to this section.

Section 11.4 Public Liability Insurance: The Board of Directors shall also be required to obtain and maintain, to the extent obtainable, public liability insurance in such limits as the Board of Directors may from time to time determine, covering each member of the Board of Directors, the managing agent, the manager, and each unit owner. Such public liability coverage shall also cover cross liability claims of one insured against another. The Board of Directors shall review such limits once each year. Until the first meeting of the Board of Directors following the first annual meeting of the unit owners, such public liability insurance shall be in a single limit of at least One Million (\$1,000,000) Dollars covering all claims for bodily injury or property damage arising out of one occurrence. Such insurance shall provide liability coverage for all common and limited common elements set forth herein in the Exhibits hereto.

Section 11.5 Additional Insurance: Unit owners or their mortgagees shall not be prohibited from carrying other insurance for their own benefit provided that all policies shall contain waivers of subrogation, that the liability of the carriers issuing insurance obtained by the board of Directors shall not be affected or diminished by reason of any such additional insurance carried by any unit owner and that all reasonable efforts shall be made to place such additional insurance with the carrier issuing insurance obtained by the Board of Directors. Each building or unit owner is responsible for obtaining such liability insurance as is necessary to insure his interest and liability for damage arising from the use and occupancy of his premises as may be made by third parties and is further responsible for obtaining such property insurance as may be necessary to insure his interest in personal or other property with Creekside.

Section 11.6 Declarant (developer) shall provide both property and liability insurance for any building (units) under construction to the date of issuance of an occupancy permit by the municipality and shall also bear the risk loss as to property and/or injury to third parties.

## **ARTICLE XII GENERAL PROVISIONS**

Section 12.1 Covenants and Enforcements: All of the requirements imposed upon the owners of the condominium property by this Declaration shall be deemed to constitute covenants, conditions, restrictions or easements which shall run with and bind the property submitted to condominium ownership until removed from the provisions of the Unit Ownership Act of Wisconsin, and shall be binding upon and inure to the benefit of such property and all present and future parties having any legal or equitable right, title or interest therein, their respective heirs, personal representatives, assignees and successors. The Association and/or any owner shall have the right to enforce all such covenants, conditions, restrictions or easements now or thereafter imposed by this Declaration and the By-Laws and the rules and regulations of the Association by any proceeding at law or in equity. Failure to proceed with such enforcement shall not be deemed or constitute a waiver of the right to therefore enforce the original or any subsequent violation.

Section 12.2 Additional Rights of Mortgage Holders: The holder of any mortgage of any unit or units which has notified the Association in writing delivered or mailed by certified mail to the place of service of process stated herein, shall have the right to receive written notice by mail of the call of any meeting of the membership or the Board of Directors of the Association to be held for the purposes considering any proposed amendment to this Declaration, the Articles of Incorporation of the Association or the By-Laws of the Association. Further, the Board of Directors of the Association shall give, if also requested as provided herein, a notice of any default of any unit owner as to any of the provisions of this Declaration, the Articles and the By-Laws thereunder, simultaneously with giving the required notice to any unit owner for such violation. Further, if requested, the board of Directors shall give notice in writing to any mortgage holder of any damage to a mortgaged unit in excess of One Thousand (\$1000) Dollars or to the condominium property in excess of Ten Thousand (\$10,000) Dollars.

Section 12.3 Amendments of Declaration: This Declaration may be amended by the Declarant until all units have been sold, conveyed and paid for in Phase I and/or Phase II and III to the extent that Declarant

has exercised its option (reservation) timely as provided herein, solely in order to correct any errors or omissions herein or may be amended by vote of at least sixty-seven (67%) of the unit owners present and voting in person or by proxys at a meeting duly held in accordance with the provisions of the By-Laws of the Association or by unanimous vote of all members of the Board of Directors of the Association at a meeting duly held in accordance with the provisions of the By-Laws, provided, however, that the provisions of Section 703.13 (4) of the Wisconsin Unit Ownership Act shall apply to any vote to change or alter the percentage of ownership in the common or limited common elements; and further provided that any amendment comply with Section 12.2 above, relating to the rights of mortgage holders.

Section 12.4 Termination of Condominium Plan: This condominium plan may be terminated only upon compliance with and in accordance to the provisions of Section 703.28 of the Wisconsin Statutes.

Section 12.5 Other Assessments: Should any local government unit levy an assessment for public improvements against any part of the condominium property, such assessments may be paid by the association as a common expense, and the share thereof allocated to such unit(s) as may be appropriate as provided in this Declaration shall become and be added to the assessments against each such unit(s).

Section 12.6 Service of Process: The person to receive service of process upon the Association shall be any officer of the Creekside Owners Association Board of Directors, 2505 Crosscreek Drive, Sheboygan, Wisconsin 53081. The members of the association may from time to time designate a successor to receive service of process, which shall be affected by compliance with statutory provisions of the State of Wisconsin therefor.

Section 12.7 Severability: In the event any one or more of the covenants, conditions, restrictions, or easements contained in this Declaration is declared invalid, such invalid provisions shall in no way affect any other provisions of this Declaration which shall remain in full force and effect.

Dated at Sheboygan, Wisconsin, this 21st day of May, 1980

EGGEBEEN BUILDERS INC.

By:     /s/ John R. Eggebeen    

John R. Eggebeen, President)

By:     /s/ Gerald R. Eggebeen, Secretary      
(Gerald R. Eggebeen, Secretary)

Amended:	October 13, 1980	July 12, 1984
	June 7, 1983	December 20, 1984
	June 14, 1983	May 2, 2000