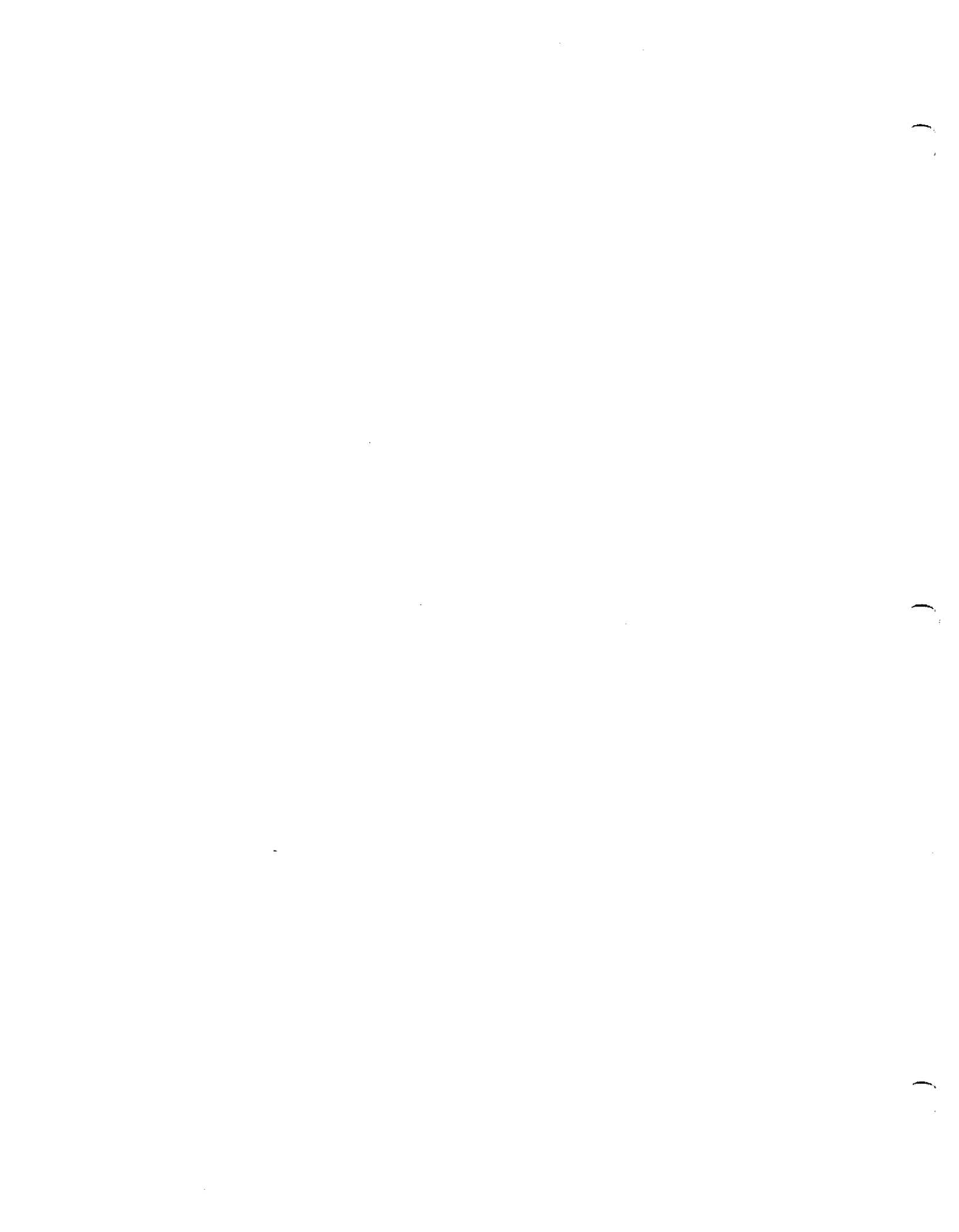


THIRD AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM
OF THE BATTLEGROUND

November 2, 2002



THIRD AMENDED AND RESTATED DECLARATION OF CONDOMINIUM OF
THE BATTLEGROUND

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**THIRD AMENDED AND RESTATED DECLARATION OF CONDOMINIUM
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November 2, 2002

STATEMENT OF PURPOSE

On November 2, 2002, the Battleground Condominium Owners' Association, Inc. adopted this Third Amended and Restated Declaration of Condominium ("this Declaration"), replacing all prior Declarations and amendments thereto in an effort to provide its members and others with a concise set of condominium documents which clearly reflect the condition of the Battleground Condominium in the present day. This Third Amended and Restated Declaration includes Exhibits A-E which are attached hereto and incorporated herein by reference.

INTRODUCTION

1. On January 2, 1975 Battleground Associates, a Vermont Limited Partnership having its principal place of business in Fayston, Vermont, owned in fee simple, certain real property (the "Property") located in Fayston, Vermont, as more particularly described in Exhibit A; and
2. On January 2, 1975 and in phases subsequent thereto the Property was submitted to the condominium form of Ownership pursuant to the Vermont Condominium Ownership Act (Title 27, Vermont Statutes Annotated, Sections 1301-1329, as amended); and
3. The Declaration of Condominium, dated January 2, 1975 (the "Original Declaration") was recorded with the Town Clerk, Town of Fayston, Washington County, Vermont; in Book 30, pages 186-218c; and
4. After January 2, 1975, sixty-three condominium units and other improvements were constructed on the condominium property, all of which were subject to the Original Declaration, as amended. Said improvements are more particularly described in Exhibit B; and
5. Pursuant to the terms of the Original Declaration, as amended, the Battleground Condominium Association was formed.
6. On January 7, 1975 The Battleground Condominium Owners' Association was incorporated and became The Battleground Condominium Owners' Association, Inc.
7. The Property and the improvements constructed thereon were then and continue to be known as "The Battleground"; and

FAYSTON TOWN CLERK'S OFFICE
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DATE 7/27/04 TIME 11:40 A.M.
RECORDED IN BOOK 97 PAGE 683-742
ATTEST Patti Lewis, Clerk TOWN CLERK

8. All sixty-three units of the Battleground Condominium were sold.

9. The Original Declaration has been amended from time to time between January 2, 1975 and the date hereof.

10. The Battleground Condominium Owners' Association, Inc. hereby ratifies and confirms the Developer's submission of the Property to condominium Ownership and makes the following declarations as to the divisions, limitations, restrictions, covenants and conditions, and hereby declares and agrees that the Property is held and shall be held, conveyed, mortgaged, encumbered, leased, used, occupied and improved subject to this Declaration, which shall constitute covenants running with the land and shall be binding on and for the benefit of the owners and lessees of all or any part of The Battleground Condominium and their respective successors, heirs, executors, administrators and assigns.

THIRD AMENDED AND RESTATED

DECLARATION OF CONDOMINIUM

I. CONDOMINIUM PROPERTY

The following described Property has been and remains submitted to condominium Ownership:

A. LANDS

All those lands and premises, together with improvements located thereon, and all easements and rights appurtenant thereto, as depicted and described in Exhibit A.

B. BUILDINGS AND IMPROVEMENTS

The buildings and improvements, which are depicted and described as they were originally built, in Exhibit B and the floor plans referred to therein.

C. COMMON AREAS AND FACILITIES

The Common Areas and Facilities are depicted on Exhibits A and B. The percentage of undivided ownership interest appurtenant to each Unit remains unchanged and continues to be as specified on Exhibit C (percentage of undivided ownership interests and value thereof).

II. NAME OF CONDOMINIUM

The condominium is to be identified by the name "The Battleground".

III. DEFINITIONS

A. For all purposes in this Declaration, the By-Laws of The Battleground Condominium Owners' Association, Inc. (the "Association"), and the Rules and Regulations of the Association, the following words shall have the definitions as hereinafter stated:

1. Unit - The condominium unit being an apartment space designated or described as "'condominium unit" on the sketch of survey, site plans, floor plans, and written descriptions shown on Exhibits A and B, together with the undivided ownership interest in the Common Areas and Facilities appurtenant thereto as set forth in Exhibit C.
2. Common Areas and Facilities - That portion of the condominium property not included within the boundaries of a Unit, including the tangible personal property, required for the maintenance and operation of The Battleground, even though owned by the Battleground Condominium Owners' Association.
3. Limited Common Areas and Facilities - Those Common Areas and Facilities which are reserved for the use of a certain Unit or Units to the exclusion of other Units as shown on the site plans and floor plans included in Exhibits A and B and as more particularly described in this Declaration.
4. Unit Owner - That person, entity or collection of persons and/or entities owning a Unit in fee simple.
5. Building - A building containing two or more Units.
6. Condominium Property - All of the lands and premises described in Exhibit A and all of the buildings and improvements described in Exhibit B, meaning and intending to include all Units, all Common Areas and Facilities and all limited condominium areas and facilities of the Battleground.
7. The Association - The Battleground Condominium Owners' Association, Inc.
8. Undivided Ownership Interest - The percentage of undivided ownership interest in Common Areas and Facilities appurtenant to each Unit as set forth in Exhibit C.

B. OTHER TERMS

Other terms used in this Declaration and its Exhibits shall have the meanings stated in the Vermont Condominium Ownership Act, unless the context requires otherwise.

IV. BOUNDARIES OF A UNIT

Each Unit consists of the interior surfaces of its:

1. perimeter and bearing walls;
2. bottom story floor;
3. top story ceiling;
4. trim;
5. door and door frame;
6. window frames, and its windows; and
7. the air space so encompassed.

A Unit Owner shall not be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, floor and ceilings surrounding his or her respective unit, nor shall such Unit Owner be deemed to own the utilities running through his or her Unit which are utilized for or serve more than one Unit. A Unit Owner, however, shall be deemed to own and shall maintain the inner decorated and/or finished surfaces of the perimeter walls, floors and ceilings, doors and windows, and other elements consisting of paint, wallpaper and other finishing materials and the interior non-supporting walls contained within the unit. Further details are contained in Exhibit B hereto.

V. INTENDED USE OF BUILDINGS AND UNITS

Buildings and Units are to be used for residential purposes; however, Units may be rented to third persons and the Association may maintain an office.

VI. COMMON AREAS AND FACILITIES

Common Areas and Facilities as hereinabove defined shall include within its meaning, in addition to the items listed in the Vermont Condominium Ownership Act, the following items:

- A. An exclusive easement for the use of the air space occupied by the Unit as it exists at any particular time and as the Unit may be lawfully altered.
- B. An undivided share in the common surplus.
- C. Cross-easements for ingress, egress, support, maintenance, repair, replacement and utilities.

D. Easements or encroachments by the perimeter walls, ceilings and floors surrounding each Unit caused by the settlement or movement of the building or by minor inaccuracies in building or rebuilding which now exist or hereafter exist, and such easements shall continue until such encroachment no longer exists.

E. Automobile parking not under cover is available at two parking spaces for each Unit and constitutes part of the common elements, but will be assigned pursuant to regulations of the Association.

VII. PERCENTAGE OF UNDIVIDED OWNERSHIP INTEREST IN COMMON AREAS AND FACILITIES

The undivided ownership interests, stated as percentages, in the Common Areas and Facilities appurtenant to each of the Units, as well as the original values of each Unit and concomitant Common Areas and Facilities, remain unchanged and are as stated in Exhibit C.

VIII. COMMON EXPENSES AND COMMON PROFITS

Common expenses shall be shared by the Unit Owners in proportion to the percentage of ownership interest of each Unit Owner as set forth in Exhibit C. Common expenses shall include the expenses in connection with any taxes, assessments, insurance and all other expenditures for which the Association shall be responsible, including those expenditures contracted for recreational facilities and management of the condominium project.

The common profits shall be shared by Unit Owners in proportion to their respective percentages of undivided ownership interest as set forth in Exhibit C.

IX. THE ASSOCIATION

A. NAME - The affairs of The Battleground shall be conducted by an incorporated non-profit Association. The name of the Association to conduct the affairs of the condominium shall be The Battleground Condominium Owners' Association, Inc. The By-Laws of the Association are fully set forth in Exhibit D.

B. MEMBERSHIP - Each Unit shall be entitled to one membership in the Association.

C. VOTING MEMBERS - If a Unit is owned by one individual, that individual shall be a voting member. An individual Unit Owner shall continue to be a voting member until title to the unit is transferred as evidenced by a deed, recorded in the land records of the Town of Fayston, Vermont

In the event that a Unit is owned by more than one individual or by a partnership, the

individual(s) or entities holding a majority interest in the Unit shall designate a single voting member from among themselves and shall provide the Association's secretary with written notice of the designated voting member's name.

In the event that a Unit is owned by a corporation, the corporate secretary shall provide the Association's secretary with a certificate designating the person authorized to act as a voting member on behalf of the corporation. A designated voting members shall continue to vote on behalf of his or her Unit until such time as another person is properly designated in accordance with the foregoing or until title to the Unit is transferred, as evidenced by a deed, recorded in the land records of the town of Fayston, Vermont, whichever comes first.

D. VOTING - The single vote to be cast for each Unit shall be accorded the same weight as the undivided ownership interest appurtenant to that Unit as set forth in Exhibit C.

E. BOARD OF DIRECTORS - All the affairs, policy, regulations and property of the Association shall be controlled and governed by the Board of Directors of the Association consisting of not less than three (3) voting members and not more than seven (7) voting members who are all to be elected annually by the voting members.

F. INDEMNIFICATION OF DIRECTORS AND OFFICERS OF THE ASSOCIATION - Every director and every officer and agent of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him or her in connection with any proceedings to which he or she may be a party, or in which he or she may become involved, by reason of his or her being or having been a director or officer or agent of the Association, or any settlement thereof, whether or not he or she is a director or officer or agent at the time such expenses are incurred, except in such cases wherein the director or officer or agent is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties; provided that in the event of a settlement the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interests of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer or agent may be entitled.

G. BY-LAWS OF THE ASSOCIATION - The affairs of the Association and the administration of each Unit shall be governed by the By-Laws of The Battleground Condominium Owners' Association, Inc. a true copy of which is attached hereto as Exhibit D.

X. AMENDMENT OF DECLARATION BY UNIT OWNERS

This Declaration may be amended, except as provided by law, by affirmative vote of three-fourths (3/4) of the aggregate undivided ownership interest at a meeting duly called for such purpose pursuant to the By-Laws of the Association; provided, however, that no amendment shall be made which shall in any manner impair the security of any institutional

lender having a mortgage or other lien against any Unit without the consent of such lender (and this shall include, without limitation, any amendment whatsoever to ARTICLE XIV hereof or ARTICLE XV hereof or ARTICLE XVIII hereof or which would change in any material respect any Unit subject to a lien held by such lender or increase the share of common expenses applicable to a Unit subject to a lien held by such lender), or any other record owners of liens thereon.

XI. ASSESSMENTS, LIABILITIES, LIENS AND PRIORITY, AND COMPLIANCE WITH RULES

A. **COMMON EXPENSES** - Common expenses shall be assessed against each Unit Owner by the Association as provided in ARTICLE VIII above.

B. **ASSESSMENTS** - Every assessment, regular or special, made by the Association for the share of the common expenses chargeable to any Unit, together with the costs incurred in collecting same, including reasonable attorney's fees shall be secured by a lien in favor of the Association against the Unit. The lien shall be prior to all other liens except tax liens, all sums unpaid on any first mortgage and mechanics' liens.

C. **INTEREST: APPLICATION OF PAYMENTS** - All assessments of common expenses and installments thereon not paid within thirty (30) days after the date of billing shall be subject to a late charge of fifteen (\$15.00) dollars (or such other amount as the Board of Directors shall determine) for each month or part thereof such assessments and installments thereof remain unpaid.

D. **RENTAL PENDING FORECLOSURE** - In any foreclosure of a lien for assessments, the Unit Owner subject to the lien shall be required to pay a reasonable rental for the Unit, and the Association shall be entitled to the appointment of a receiver to collect the same.

E. **MORTGAGEE'S RIGHTS** - Where the mortgagee of a first mortgage of record on a Unit, or the purchaser of a Unit obtains title to the Unit in a proceeding for the foreclosure of the first mortgage, said mortgagee or purchaser shall not be liable for the share of common expenses or assessments by the Association chargeable to such Unit or chargeable to the former Owner of such Unit which became due prior to the acquisition of title by foreclosure. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all Unit Owners, including such mortgagee or purchaser and their successors and assigns. Nothing in this paragraph shall be interpreted to prevent the Association from collecting those assessments from the Unit Owner who held title prior to the foreclosure.

F. **COMPLIANCE AND DEFAULT** - Each Unit Owner shall be governed by and shall comply with the terms of this Declaration, By-Laws and Administrative Rules and Regulations adopted pursuant thereto and as the same may be amended from time to time. Failure of a Unit Owner to comply with any of such terms shall entitle the Association and

other Unit Owners to the following relief, in addition to the remedies provided by the Act or by applicable law.

G. MISUSE OR NON-COMPLIANCE - Unit Owners are liable for the expense of any maintenance, repair, or replacement rendered necessary by non-compliance with this Declaration, By-Laws and Administrative Rules and Regulations or act, neglect, or carelessness or by that of any member of such Unit Owner's family, such Unit Owner's lessees, or such Unit Owner's or Lessee's guests, employees, or agents, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy, or abandonment of a Unit or its appurtenances, or of the Common Areas and Facilities.

H. INJUNCTION - Any Unit Owner and any other party shall also, in addition to any other relief available under the law, be liable to injunctive relief, to prevent or abate the effects of such violation upon one or more Unit Owners, or the Association.

I. COSTS - In a proceeding arising because of an alleged failure of a Unit Owner to comply with the terms of this Declaration, By-Laws, and Administrative Rules and Regulation adopted pursuant thereto, and as the same may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be awarded by the court.

J. NO WAIVER - The failure of the Association, its Board of Directors, or any Unit Owner to enforce any covenant, restriction, or other provision of the Act, this Declaration, the By-Laws, or the Administrative Rules and Regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

XII. MAINTENANCE

The responsibility for the maintenance of the condominium property shall be as follows:

A. BY THE ASSOCIATION

The Association shall maintain, repair and replace, at the Association's expense, all common area and facilities and Limited Common Areas and Facilities; and

1. All portions of the Units (except interior wall surfaces) contributing to the support of the building, which portions shall include, but not be limited to, floors and ceiling slabs, load bearing columns and load bearing walls;

2. All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services which are contained in the portions of the Unit

contributing to the support of the building or within interior boundary walls, and all such facilities contained within a Unit which service part or parts of the condominium property other than the Unit within which it is contained;

3. Balconies; and

4. All incidental damage caused to a Unit by such work shall be promptly repaired at the expense of the Association.

B. BY THE CONDOMINIUM UNIT OWNER

The maintenance responsibilities of the Unit Owner, shall be as follows:

1. To maintain in good condition, repair and replace at the Unit Owner's expense, all portions of the Unit, except those portions to be maintained, repaired and replaced by the Association, and to maintain, repair and replace windows and sliding glass doors except in case of damage for which insurance proceeds are paid under policies purchased by the Association. Such shall be done without disturbing the rights of other Unit Owners.

2. Not to paint or otherwise decorate or change the appearance of any portion of the exterior of the building.

3. To promptly report to the Association any defects or need for repairs, the responsibility for the remedy of which is that of the Association.

4. No Unit Owner shall make any alterations in the portions of the buildings which are to be maintained by the Association or remove any portion thereof or make any additions thereto without first obtaining approval from the Board of Directors of the Association.

5. No Unit Owner shall do any work which would jeopardize the soundness or safety of the property, reduce the value thereof or impair an easement without the unanimous consent of all other Unit Owners.

XIII. ENFORCEMENT OF MAINTENANCE

In the event Unit Owner fails to maintain the Unit as required above, the Association, or any other Unit Owner, shall have the right to proceed in a court of equity, to seek compliance with the foregoing provisions; or the Association shall have the right to assess the Unit Owner and the Unit for the necessary sums to put the improvements within the Unit in good condition. After such assessment, the Association shall have the right to have its employees or agents enter the Unit and do the necessary work to enforce compliance with the above provision; however, any lender or Unit Owner, in the event the Association fails to comply with the terms and conditions of this Declaration or its By-Laws, may apply to a

court of competent jurisdiction for the appointment of a receiver for the purposes of carrying out the terms and conditions required to be performed by the Association.

THE FOREGOING ARTICLE XIV HAS BEEN APPROVED BY THE ASSOCIATION, HOWEVER, IT HAS NOT BEEN APPROVED BY ALL MORTGAGEES PURSUANT TO THE DECLARATION OF CONDOMINIUM.

XIV. INSURANCE

The insurance, other than title insurance, which shall be carried upon the condominium property shall be governed by the following provisions:

A. AUTHORITY TO PURCHASE

1. Insurance Policies - All insurance policies upon the condominium property or operations of the Association in connection therewith (except as hereinafter permitted in paragraph C hereof), shall be acquired, maintained, and paid for as common expenses by the Association.

2. Expert Assistance - To assist in purchase and administration of such policies of insurance, to the extent, from time to time, as the Association deems such assistance necessary and prudent, the Association is empowered to employ the services of independent appraisers, insurance analysts, consultants or brokers, the expenses of any of which shall be included in common expenses.

B. INSURANCE SPECIFICATIONS

1. The Common Areas and Facilities and Limited Common Areas and Facilities - Except as otherwise provided herein, the Board of Directors shall insure the Condominium Property against loss or damage due to "all risk," so called, on such terms as, and in such amounts as the Board of Directors may deem appropriate. Insurance should be obtained on a replacement cost basis if such coverage is obtainable at reasonable cost. In any event the amount of insurance coverage shall be sufficient to prevent the operation of any co-insurance clause in the policy or policies. Such policies shall cover the entire Condominium Property, exclusive of the Units which are owned by the Unit Owners and personal property/furnishings of the Unit Owners and shall be written in the name of the Association. Certificates of Insurance shall be provided to Unit Owners and their mortgagees upon request. In the event of loss or damage, all insurance proceeds shall be paid to the Association. To the extent obtainable without substantial additional cost, all such insurance shall contain waiver of subrogation clauses.

2. Association Insurance - Association shall insure all building improvements except for:

- a. perimeter and bearing walls;
- b. bottom story floor;
- c. top story ceiling;
- d. trim;
- e. door and door frames;
- f. window frames, and its windows; and
- g. the air space so encompassed.

3. Liability Coverage - The Board of Directors shall also obtain broad form, comprehensive public liability insurance and such other types of coverage, for a sum of not less than four million (\$ 4,000,000.00) dollars, including umbrella coverage. Any public liability policy shall contain severability of interest clauses or endorsements extending coverage of liabilities of the Association to a Unit Owner.

4. Primary Insurance - The Association's coverage shall be primary insurance and shall not be affected or diminished by reason of any insurance coverage maintained by any individual Unit Owner. The conduct of any Unit Owner, or his or her invitees, of employees shall not result in the avoidance of the insurer's liability.

5. Additional Insurance - The Board of Directors may obtain additional insurance protection with such companies and in such amounts as is customary or prudent, including Board of Directors' indemnity insurance (if obtainable at reasonable cost).

C. UNIT OWNERS' INSURANCE

Each Unit Owner may obtain and keep in force such additional insurance as he or she may desire to cover his or her Unit and such improvements and betterments therein and thereto as he or she or any of his or her lessees may have made, and his or her personal property, specifically, the inner decorated and/or finished surfaces of the perimeter walls, floors and ceilings; the doors and windows and other elements of the unit; paint, wallpaper and other finishing materials; the interior non-supporting walls contained within his or her unit; and any other improvements and betterments to the unit and personal property. In cases where Common Area or Limited Common Area has been improved by a unit owner under the terms of a Lease with the Association, the Association shall not be required to insure any improvements or betterments to said common area except to the extent needed to replace the area to its pre-improvement condition; including comprehensive personal liability coverages; such insurance shall be carried for the sole protection and at the sole expense of the Unit Owner and shall not be contributory with any insurance maintained by the Association.

D. GENERAL INSURANCE CONDITIONS

1. Association as Agent - The Association is hereby appointed agent for each Unit Owner to adjust all claims arising under the insurance policies purchased by the Association, subject to the approval of any mortgagee of the premises damaged if major damage occurs, and upon having such approval to execute and deliver releases upon the payment of claims.

2. Cooperation - All Unit Owners and their lessees, if any, and the Association shall promptly comply with all rules, regulations and requirements of any national or local rate making bodies and of the insurers to the extent necessary to assure full effectiveness of all insurance on the Condominium Property at all times and at rates appropriate to the size and character of the property and to supply proper and adequate security, safety and loss prevention practices as required by any applicable national, state or municipal laws and regulations.

3. Copies of Policies - Each Unit Owner and his or her mortgagee, if any, shall be supplied with certified copies of all policies of insurance maintained by the Association upon request. The Association shall be supplied with copies of all policies of insurance maintained by a Unit Owner upon request.

E. RECONSTRUCTION OR REPAIR AFTER CASUALTY

1. Substantial Destruction - In the event of substantial destruction of the Condominium Property by fire or other casualty, the damage shall be promptly repaired or the condominium reconstructed unless seventy-five percent (75%) or more of the undivided ownership interests present in person or by proxy at a duly called meeting of the Association shall vote against such repair or reconstruction. Substantial destruction shall be the destruction of more than fifty (50%) percent of the entire value of the Condominium Property

2. Special Meeting - In the event of substantial destruction, a special meeting of the Unit Owners shall be called in the manner provided in the By-Laws. Prior to the calling of such meeting, the Board of Directors shall obtain and prepare for presentation such description of the damage, estimates of cost of repair, amount of insurance proceeds available and special assessments which may be required as will enable the Unit Owners to make an informed decision whether to repair or rebuild.

3. Less than Substantial Destruction - In the event of less than substantial destruction of the Condominium Property, the premises shall be repaired or rebuilt as expeditiously as possible in such manner and on such terms as the Board of Directors may designate.

4. Repair of Units - Repair or reconstruction of those portions of a building which are owned by a specific Unit Owner and are not common Areas and facilities or limited common areas and facilities shall be the responsibility of the Unit Owner and must conform to the certified floorplans which have been filed in the Fayston Land Records and to the provisions of Exhibit C of this Declaration.

5. Assessments - If the proceeds of insurance are not sufficient to defray the estimated cost of reconstruction and repair, or if at any time during reconstruction and repair or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, assessments shall be made against the Unit Owner(s) in sufficient amounts to provide funds for the payment of such costs.

6. Mortgagees - In the event a mortgagee clause is effective as to a Unit, the Unit Owner's share of the insurance proceeds shall be held in trust for the mortgagee and the Unit Owner, as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions, if any, of such proceeds made to the Unit Owner and mortgagee.

XV. CONVEYANCES, SALES, RENTALS, LEASES AND TRANSFERS

A. CONVEYANCES, SALES AND TRANSFERS

Prior to the sale, conveyance or transfer of any Unit to any other person other than transferor's spouse, family trust or immediate family member, the Unit Owner shall notify the Board of Directors of the Association, in writing, of the name and address of the person to whom the proposed sale, conveyance or transfer is to be made, the purchase price, the terms of the sale, a copy of the purchase contract, if any, and such other information as may reasonably be required by the Board of Directors of the Association.

The Association shall have the right of first refusal over the prospective transferee to accept such sale or transfer on the terms contained in the Unit Owner's notice to the Association, provided that the Association shall notify the Unit Owner, in writing, of the acceptance not later than ten (10) days after the receipt of the Unit Owner's notice.

In the event the Association does not send to such Unit Owner, on or before the expiration of said ten (10) days, a notice accepting the price and terms of the proposed sale or transfer, then the Unit Owner may complete the sale or transfer at the price and the terms given in such notice, but at no other price or terms without repeating the procedure outlined above.

The Association, by an officer thereof or its Resident Manager, shall, if it elects not to exercise its right of first refusal, execute within said ten (10) day period a waiver of such right of first refusal in recordable form.

B. RENTAL OR LEASE

A Unit may be leased or rented only if the lease agreement form has been previously approved by the Association or its authorized representative. Such lease or rental shall not release the member from any obligation under this Declaration, the By-Laws or Rules and Regulations.

C. TRANSFER TO A MORTGAGEE

Notwithstanding anything to the contrary herein, the provisions of this paragraph XV shall not be applicable to a transfer to a mortgagee or to a mortgagee's successor in interest, whether by deed in lieu of foreclosure, in a strict foreclosure or by judicial sale, whereby such mortgagee becomes a Unit Owner, nor to any sale or lease by such mortgagee.

D. MORTGAGE

No Unit Owner may mortgage a condominium Unit or any interest therein without approval of the Association, except to a bank, life insurance company, a federal savings and loan association, or to the seller. The approval of any other mortgagee may be upon conditions determined by the Association or may be arbitrarily withheld.

XVI. RESTRAINT UPON SEPARATION AND PARTITION

Any transfer of a Unit must include the Unit Owner's undivided ownership interest in the Common Areas and Facilities and his or her Association membership.

XVII. OBLIGATIONS AND RESTRICTIONS

In addition to the other obligations and duties heretofore set out in this Declaration, every Unit Owner shall:

- A. Maintain his or her Unit in a clean and sanitary manner.
- B. Not permit or suffer anything to be done or kept in his or her Unit which will increase the insurance rates of his or her Unit or the Common Areas and Facilities, or which will obstruct the rights or interfere with the rights of other Unit Owners or annoy them by unreasonable noises or otherwise; nor shall a Unit Owner commit or permit any nuisance, immoral or illegal act in his or her Unit or on the Common Areas and Facilities.
- C. Conform to and abide by the By-Laws and Rules and Regulations in regard to the use of the Unit and Common Area and Facilities which may be adopted in writing from

time to time by the Board of Directors of the Association, and to see that all persons using the Unit Owner's property by, through or under him or her to do likewise.

D. Allow the Board of Directors or agents or employees of the Association to enter any Unit for the purpose of maintenance, inspection, repair, replacement of the improvements within the Units or the Common Area and Facilities, or in case of emergency threatening Units or the Common Areas and Facilities, or to determine compliance with these restrictions, reservations, covenants, conditions and easements and By-Laws of the Association.

E. Show no sign, advertisement or notice of any type on the Common Areas or Facilities or his or her Unit and erect no exterior antennas and aerials, except as provided by uniform regulations promulgated by the Association, and there shall be no "for sale" signs in any form or size placed inside or outside the windows of the Unit or attached in any way to the curtains or venetian blinds or any other part of the Unit either inside or outside.

F. Not to do any act that will impair the structural soundness of the building; and not make or cause any structural alteration to and in the building, specifically including, but not limited to, screening or enclosure of private balconies and/or affixed outside shutters to windows or making alternations to Common Areas and Facilities, except as specifically permitted by the Association pursuant to Article IV, Sections 4J-4M of the By-Laws.

G. Make no repairs to any plumbing or electrical wiring unit within a Unit except by licensed plumbers or electricians authorized to do such work by the Board of Directors of the Association or its agent. Plumbing and electrical repairs within a Unit shall be paid for and be the financial obligation of the Unit Owner, whereas the Association or its agent shall pay for and be responsible for repair and electrical wiring within the Common Areas and Facilities.

H. Parking shall be limited to passenger automobiles, passenger station wagons, and 4-wheel drive passenger vehicles in the parking space allotted.

I. Not allow or permit to display laundry or clothing on the porches of the Units or anywhere within the said Units which would be visible from the outside of the said Unit.

J. Not be permitted to mechanically make any adjustments whatsoever without first obtaining the permission of the resident manager employed by the Association, with reference to any equipment found in the meter rooms, boiler rooms, or washer and dryer rooms.

K. Not mechanically adjust or repair the television amplifier and/or antenna.

XVIII. TERMINATION

The condominium may be terminated in the following manner:

A. BY AGREEMENT

The termination of the condominium may be effected by unanimous agreement of the Unit Owners and mortgagees holding mortgages on said Units, which agreement shall be evidenced by an agreement instrument or instruments executed in the manner required for the conveyances of land. The termination shall become effective when such agreement has been recorded in the Land Records of the Town of Fayston, Vermont.

B. SUMS DUE ASSOCIATION

Any unpaid sums due the Association shall survive any termination of the condominium and shall continue to be an obligation of the individual Unit Owners' and shall continue to be a lien against the Unit Owner's interest until paid, but any such lien shall be subordinate and inferior to that of any institutional first mortgage and shall encumber only the interest of the Unit Owners obligated to pay same.

C. SURVIVING INTEREST

After termination of the condominium, the Unit Owners shall own the condominium property and all assets of the Association as tenants in common in undivided shares that shall be the same as the undivided ownership interest in the Common Areas and Facilities appurtenant to the Owner's condominium Unit prior to the termination.

XIX. COVENANTS

All provisions of the Declaration shall be construed to be covenants running with the land and with every part thereof and interest therein, and every Unit Owner and claimant of the land or any part thereof or interest therein, and his or her heirs, executors, administrators, successors and assigns shall be bound by all the provisions of the Declaration.

XX. INVALIDATION AND OPERATION

Invalidation of any portion of this Declaration or of any provisions contained in a conveyance of a condominium Unit whether by judgment or court order, or law, shall in no way affect any of the other provisions which shall remain in full force and effect.

In the event any court should hereafter determine that any provisions as originally drafted herein violate the rule against the perpetuities or any other rule of law because of the duration of the period involved, the period specified in the Declaration shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rule of law and for such purpose measuring lives shall be those of the original members of the Association.

XXI. INTERPRETATION

Whenever the context so requires, the use of any gender shall be deemed to include all genders and the use of the singular shall include the plural. The provisions of this Declaration shall be literally construed to effectuate its purposes of creating a uniform plan for the operation of a condominium in accordance with the laws made and provided for same, to wit: Title 27, Vermont Statutes Annotated, Sections 1301-1329, as amended.

XXII. MAINTENANCE AGREEMENT

The Association by and through its Board of Directors and officers may enter into an agreement with a Management Company for the management and maintenance of the condominium. Amendment or revision of such agreement shall not require the procedures for an amendment or change to the Declaration or to the By-Laws, and may be accomplished by expression thereof executed by the Board of Directors of the Association and the Management Company.

If such agreement is made, each Unit Owner, his or her heirs, successors and assigns shall be bound by said maintenance agreement to the same extent and effect as if he or she had executed said maintenance agreement for the purposes herein expressed, including, but not limited to: (a) adopting, ratifying, confirming and consenting to the execution of said maintenance agreement by the Association; (b) covenanting to and promising to perform each and every of the covenants, promises and undertakings to be performed by Unit Owners in the cases provided therefore in said maintenance agreement; (c) ratifying, confirming and approving each and every provision of said maintenance agreement and acknowledging that all the terms and provisions thereof are reasonable; and (d) agreeing that the persons acting as directors and officers of the Association entering into such agreement have not breached any of their duties or obligations to the Association. If such an agreement is made, the maintenance agreement, each and every provision thereof and the acts of the Board of Directors and officers of the Association entering into such agreement be and the same be hereby ratified, confirmed, approved and adopted.

The initial term of any such management agreement shall not exceed five (5) years from the date of execution.

XXIII. RESERVATION OF USE AND RECREATION EASEMENT

The original Declaration, as amended, reflects a use easement reserved by the Developer. That easement is more fully described in Exhibit A.

XXIV. GRANT OF EASEMENTS

The Original Declaration included a grant of various easements for ingress and egress over the Access Road and the driveways, and walkways located on the condominium property. The Original Declaration also granted the Unit Owners in later Phases the right to connect to

and maintain utility lines located in Phases I and II of the condominium property. Those easements while perpetual in nature and never abandoned, are believed to have merged with the fee simple title conveyed by the Developer to the Unit Owners and their predecessors in interest and thus are not repeated at length herein.

XXV. CONDEMNATION

A. In the event of service or process in condemnation action upon the Association, the Board of Directors of the Association shall immediately notify all Unit Owners.

B. Upon the entry of a decree of condemnation or order of taking resulting in the taking of a Unit, but not before, the Unit Owner shall automatically cease to be a member of the Association and cease to have any interest in Common Areas and Facilities. Such termination of membership shall be prospective only and shall not affect liabilities or claims which arose prior thereto.

C. Any condemnation award resulting from a condemnation of any part of the condominium property shall, in the first instance, be paid to the Association, to be held and distributed to the persons entitled thereto as hereinafter provided.

D. A total taking, which shall mean a taking involving the condemnation of not less than eighty (80%) percent of the buildings exclusive of outbuildings shall terminate this Declaration. Unless otherwise ordered by the court, the total condemnation award shall be distributed to the Unit Owners in proportion to their respective undivided ownership interests. The portions of the condominium property not taken shall be considered owned in common by the Unit Owners and shall be subject to partition pursuant to the Act.

E. A partial taking, which is a taking involving a condemnation of at least one (1%), but less than eighty (80%) percent, of the value of the Property, shall also terminate this Declaration, unless at a meeting of all remaining Unit Owners, to be called and held not later than ninety (90) days after the entry of the order of taking or decree of condemnation, the remaining Unit Owners adopt an amendment to this Declaration.

F. To take account of the elimination of the condemned Units and their Owners from the condominium; the necessary reallocations of the burdens and benefits of Unit Ownership is to be made, as far as practicable, in accordance with the general principles embodied in this Declaration.

G. Making such other changes as may be necessary for the continued satisfactory operation of the remaining condominium property in light of the nature and extent of the particular taking involved.

H. If this Declaration is not so amended within ninety (90) days of the entry of the decree or order of taking, it shall terminate and unless otherwise ordered by the court, the total condemnation award shall be distributed to the Unit Owners in proportion to their respective

undivided ownership interests. The portions of the condominium property not taken shall be considered owned in common by the Unit Owners and shall be subject to partition pursuant to the Act. If it is so amended, the condemnation award or awards shall be paid over to the Unit Owners whose Units were taken in proportion of the loss suffered by each, provided, however, that any compensation for the taking of Common Areas and Facilities shall be paid over to the Unit Owners in proportion to their respective undivided ownership interests therein.

I. A condemnation of Common Areas and Facilities only shall not terminate this Declaration unless at an Association meeting to be called and held within ninety (90) days of the entry of the order or decree of taking Unit Owners owning, in the aggregate, ninety (90%) percent or more of the aggregate undivided ownership interest vote to do so. In that event, the procedure taken as in the event of a total taking shall be applicable. In the absence of such a termination, the condemnation award or awards shall be paid over to the Unit Owners in proportion to their respective undivided ownership interests.

J. A taking of an individual Unit in any building shall, so far as possible, be treated as a simple sale or conveyance thereof.

XXVI. AGREEMENTS

The Association may acquire and enter into agreements whereby it acquires leaseholds, memberships and other possessory or use interest in lands or facilities, including recreational facilities, which are not contiguous to the condominium property intended to provide for the enjoyment, recreation or other use or benefit of the Units. The expenses of rental, membership fees, operations, replacements, or other undertakings in connection therewith, shall be common expenses.

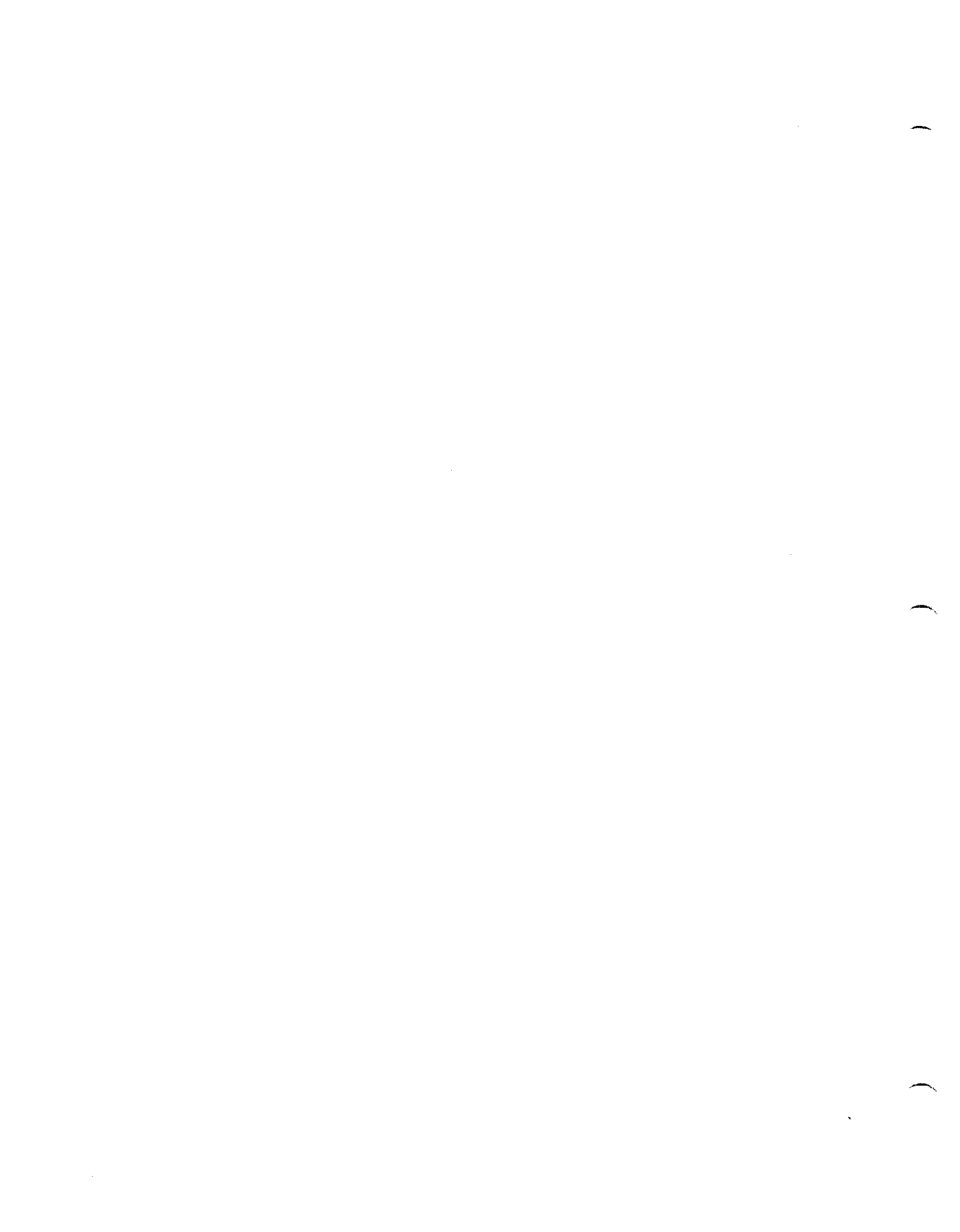
A. Generally, such facilities will be available for use by Unit Owners so long as the owners of such facilities do not change their policy to forbid such use and so long as the assessment required on a monthly or other periodic basis from the Association and its members is promptly paid to the owners of such facilities. Specifically, the owners of such facilities need not commit themselves to continue the operation or existence of such facilities for any definite period of time and they may reserve the right to change the amount of the required assessment as they determine in their discretion and to terminate the use of such facility at any time if they so decide.

B. Any and all use of such facilities will be at such times, under and pursuant to such rules and regulations and subject to such other terms and conditions all as the owners of the facilities have and may from time to time promulgate and establish for the use of such facilities by all persons entitled to use same.

XXVII. AGENT FOR PROCESS

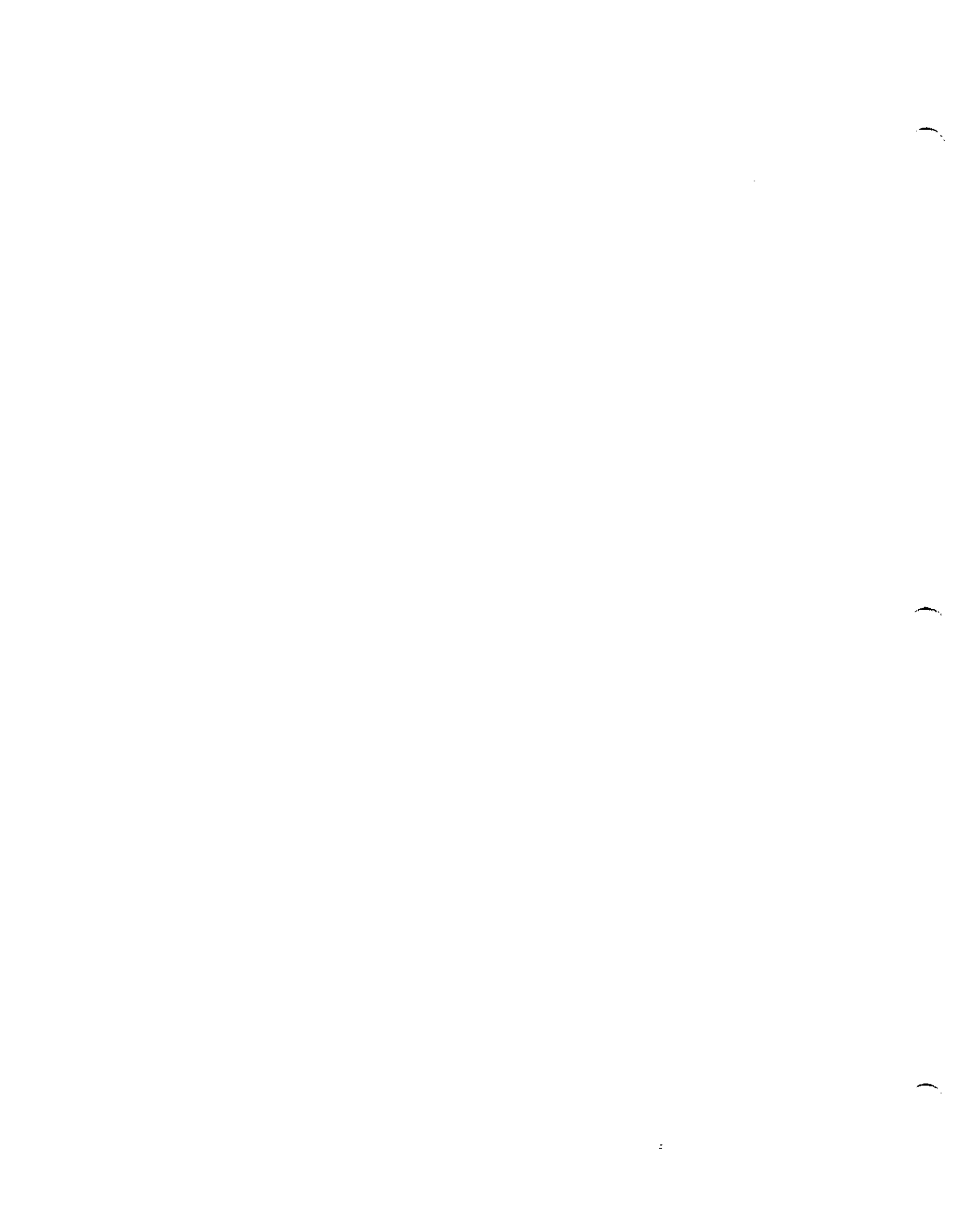
The name and address of a person on who process may be served in any action described in the Act is as follows:

Sheila M. Ware, Esq.
Darby, Stearns Thorndike Kolter & Ware
89 So. Main Street
Waterbury, VT 05676



EXHIBITS A-E
BY-LAWS & RULES AND REGULATIONS
OF THE BATTLEGROUND

November 2, 2002



EXHIBITS A-E
BY-LAWS & RULES AND REGULATIONS
OF THE BATTLEGROUND

November 2, 2002

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Exhibit A

Exhibit A to this Third Amended and Restated Declaration of Condominium has been compiled from materials previously filed with the original Declaration of Condominium and subsequent amendments thereto. No new amendment to the Exhibit is intended. This compilation has been prepared in order to provide a single document for the convenience of Unit owners, mortgagees, prospective purchasers, title examiners and others.

It is intended that the text of Exhibit A shall be exactly as it was immediately prior to the adoption of this Third Amended and Restated Declaration of Condominium and any inconsistency is inadvertent.

KELLER AND LOWE INC.
30 Foundry Street
Waterbury Vermont 05676
802-244-6961

25 March 1977

THE BATTLEGROUND #1208-89

Description of Roads to be Used and maintained in Common by All Phases

Being five roadways over strips of land 24 feet wide (except for widenings at intersections as shown on the plat mentioned herein), the center lines of which are described as follows:

Battleground Road – (revised 19 October 1976) Beginning at a point in the center line of the traveled way of Vermont Route 17 located about 3.1 miles generally westerly along said Route 17 from Vermont Route 100 and 500 feet +/- southerly along said center line from its intersection with the northeasterly line of original town Lot 14 in the 6th Range and 2300 feet +/- southerly along said center line from High Falls Bridge over Mill Brook;

thence N 86° 09 ½ ' E 67.50 feet to a point which is the beginning of Mill Brook Road;

thence N 61° 20' E 80.00 feet to a point in the covered bridge over the thread of Mill Brook;

thence N 61° 20' E 28.68 feet to the point of curvature of a 70.45 foot radius curve to the right;

thence easterly along said curve 35.25 feet to its point of tangency;

thence due E 24.00 feet to the point of curvature of a 100.00 foot radius curve with a deflection angle of 90° 00' to the right;

thence easterly 75.54 feet along said curve to its mid-point at the beginning of Battleground Circle described below:

thence N 58° 38' 24" E 55.82 feet to the point of curvature of a 418.06 foot radius curve to the left, said point bearing S 58° 38' 24" W 50.00 feet from the point of intersection of the tangents to said curve and the end of said Battleground Circle.

thence northeasterly 99.53 feet along said curve to its point of tangency which bears N 45° E 29.00 feet from the beginning of Finn Basin Road;

thence N 45° E 183.00 feet to the end of Battleground Road.

Battleground Circle – (revised 19 October 1976) Beginning at the point described under Battleground Road above as the point of beginning of Battleground Circle;

thence continuing southerly 75.54 feet along above said 100.00 foot radius curve to the right to its point of tangency;

thence Due S 84.00 feet to the point of curvature of a 40.00 foot radius curve to the left;

thence southeasterly 62.83 feet along said curve to its point of tangency;

thence Due E 28.86 feet to the point of curvature of a 128.29 foot radius curve with a 45° 00' deflection angle to the left;

thence northeasterly 100.76 feet along said curve to a point of compound curvature;

thence northerly 47.125 feet along a 60.00 foot radius curve with a deflection angle of 90° 00' to the left to its midpoint;

thence continuing northerly 47.125 feet along said curve to its point of tangency;

thence N 45° W 47.00 feet to the point of curvature of a 244.88 foot radius curve to the right;

thence northwesterly 59.71 feet along said curve to its point of tangency;

thence N 31° 01' 52" W 54.71 feet to the end of Battleground Circle described under Battleground Road above.

Mill Brook Road – Beginning at a point in the center line of Battleground Road 67.50 feet from its beginning as described in 1 above;

thence N 86° 09 ½ ' E 5.00 feet to a point;

thence S 3° 50 ½ ' E 505 feet ± to the point of curvature of a 62.00 foot radius curve to the left;

thence southeasterly along said curve 44.56 feet to a point at the end of Mill Brook Road and the beginning of Mill Brook Circle.

Mill Brook Circle – (revised 25 March 1977) This road, located at the end of Mill Brook Road for access to Phase V will be described after its exact location is determined.

Finn Basin Road – (revised 25 March 1977) Beginning at a point in the subtangent of the 418.06 foot radius curve described above under Battleground Road, said point bearing S 45° 00' W 29.00 feet from the point of tangency of said curve;

thence N 45° 00' W 33.00 feet to the point of curvature of a 57.94 foot radius curve with a deflection angle of 45° 00' to the right;

thence northerly 45.51 feet along said curve to a point of compound curvature;

thence northerly 66.66 feet along an 88.49 foot radius curve with a deflection angle of 43° 09' 35" to the left to its point of tangency;

thence N 43° 09' 35" W 100.32 feet across Finn Basin Brook to the point of curvature of an 87.77 foot radius curve with a deflection angle of 88° 09' 35" to the right;

thence northerly 135.05 feet along said curve to a point of compound curvature;

thence northerly 152.85 feet along a 209.77 foot radius curve with a deflection angle of 41° 45' to the left to its point of tangency;

thence N 3° 15' E 223 feet ± to the end of Condominium Phase IV. (This road may be extended at a future time).

Bearings are referred to a line whose bearing is magnetic as of 1970.

Included with these roadways for purposes of maintenance and turnarounds (and not for parking) are the parking areas to be constructed for the several groups of condominiums.

Also included are slope rights and enough extra width to accommodate snow removal from the roads and parking areas.

Also included are the covered bridge and any other bridges, culverts or other drainage structures necessary to the roads along with any necessary drainage ways outside the roadways.

The above mentioned roads are to be owned, maintained, repaired and replaced, in common, by the Owners of condominium apartments in all Phases, said repair, maintenance and replacement costs to be borne by the condominium apartment owners in all Phases in proportion to each unit owner's percentage of common ownership interest in the then completed roads.

DESCRIPTION OF PHASE I

Beginning at the point in the thread of Mill Brook directly below a point in the center line of Battleground Road bearing N 61° 20' E 80.00 feet along said center line from a point bearing N 86° 09 ½ ' E 67.50 feet along said center line from a point in the center line of the traveled way of Vermont Route 17 located 3.1 miles generally westerly along Route 17 from Vermont Route 100 and 500 feet ± southerly along said Route 17 center line from its intersection with the northeasterly line of original town Lot 14 in the 6th Range and 2300 feet ± southerly along said Route 17 center line from High Falls Bridge over Mill Brook;

thence northerly up said thread of Mill Brook 15 feet ± to its intersection with the thread of Finn Basin Brook;

thence northeasterly up said thread of Finn Basin Brook 595 feet ± to a point;

thence S 24° E 280 feet ± to a point;

thence S 45° 00' W 40 feet ± to the end of Battleground Road;

thence S 45° 00' W 269.00 feet along the center line of Battleground Road to a point;

thence Due W 36.00 feet along last said center line to a point;

thence Due S 100.00 feet to the center line of Battleground Circle;

thence Due S 84.00 feet along last said center line to a point;

thence Due S 60 feet ± to a point;

thence Due W 157 feet ± to said thread of Mill Brook;

thence northerly along last said thread 220 feet ± to the beginning.

Bearings are referred to a line whose bearing is magnetic as of 1970.

Reserved from this Phase is a right of way twenty-four (24) feet wide, the center line of which is a 48 inch culvert passing between Groups G and J and outletting into Finn Basin Brook. Said culvert and the responsibility for its maintenance shall be owned in common by all Phases.

The above mentioned culvert and its right of way are to be owned, maintained, repaired and replaced, in common, by the owners of condominium apartments in all Phases, said repair, maintenance and replacement costs to be borne by the condominium apartment owners in all Phases in proportion to each unit owner's percentage of common ownership interest in the then completed culvert.

DESCRIPTION OF PHASE II

Beginning at a point in the center line of Battleground Circle bearing southerly along said center line 222.37 feet from its beginning in the center line of Battleground Road bearing easterly 310.97 feet along said center line of Battleground Road from its beginning point in the center line of the traveled way of Vermont Route 17 located about 3.1 miles generally westerly along said Route 17 from Vermont Route 100 and 500 feet \pm southerly along said Route 17 center line from its intersection with the northeasterly line of original town Lot 14 in the 6th Range and 2300 feet \pm southerly along said Route 17 center line from High Falls Bridge over Mill Brook;

thence Due E 28.86 feet along said center line of Battleground Circle to the point of curvature of a 128.29 foot radius curve with a deflection angle of $45^{\circ} 00'$ to the left;

thence northeasterly 100.76 feet along said curve (last said center line) to a point of compound curvature;

thence northerly 47.125 feet along a 60.00 foot radius curve (last said center line) with a deflection angle of $90.00'$ to the left of its mid-point;

thence approximately S 59° E 387 feet \pm to a point;

thence S 47° W 487 feet \pm to an iron pipe or pin;

thence S 47° W 275 feet \pm to an iron pipe or pin;

thence S 80° W 60 feet \pm to the thread of Mill Brook;

thence generally northerly 940 feet \pm up said thread to a point;

thence Due E 157 feet \pm to a point;

thence Due N 20 feet \pm to a point;

thence Due E 40.00 feet to the point of beginning.

Bearings are referred to a line whose bearing is magnetic as of 1970.

DESCRIPTION OF PHASE III
(Revised 25 March 1977)

Group K Section – Beginning at a point in the center line of Battleground Road bearing easterly along said center line 466.32 feet from its beginning point in the center line of the traveled way of Vermont Route 17 located about 3.1 miles generally westerly along said Route 17 from Vermont Route 100 and 500 feet \pm southerly along said Route 17 centerline from its intersection with the northeasterly line of original town Lot 14 in the 6th Range and 2300 feet \pm southerly along said Route 17 center line from High Falls Bridge over Mill Brook;

thence N 45° 00' E 183.00 feet along said center line of Battleground Road to the end of said Road;

thence N 45° 00' E 40 feet \pm to a point;

thence Due S 147 feet \pm to a point in the thread of a water course;

thence southwesterly 55 feet \pm down said thread to a point;

thence S 24° E 466 feet \pm to a point;

thence approximately N 59° W 387 feet \pm to a point in the center line of Battleground Circle at the center of a 60.00 foot radius curve to the left with a deflection angle of 90° 00';

thence northerly along said curve 47.125 feet to its point of tangency;

thence N 45° W 47.00 feet along last said center line to the point of curvature of a 244.88 foot radius curve to the right;

thence northwesterly along said curve (last said center line) 59.71 feet to its point of tangency;

thence N 31° 10' 52" W 54.71 feet along last said center line to the point of intersection of a curve in said Battleground Road;

thence N 45° 00' E 21.00 feet along said Battleground Road to the point of beginning of Finn Basin Road;

thence N 45° 00' E 29.00 feet along said Battleground Road to the point of beginning of this section of Phase III.

Bearings are referred to a line whose bearing is magnetic as of 1970.

Reserved from this Phase is the common ownership, use, responsibility for maintenance of, and right of access to, the several amenities shown on the plat mentioned herein labeled "paddle tennis", "swimming pool", "tennis courts", "walk" and "steps" said common ownership and maintenance responsibilities reserved to the condominium apartment owners of all Phases, as hereafter set forth.

Groups I & N – Beginning at a point in the thread of Finn Basin Brook directly below a point in the center line of Finn Basin Road bearing northwesterly 190.17 feet from its beginning;

thence N 43° 09' 35" W 55.32 feet along said center line of Finn Basin Road to the point of curvature of an 87.77 foot radius curve with a deflection angle of 88° 09' 35" to the right;

thence northerly 135.05 feet along said curve (said center line) to a point of compound curvature;

thence northerly 152.85 feet along a 209.77 foot radius curve (said center line) with a deflection angle of 41° 45' to left to its point of tangency;

thence N 3° 15' E 73 feet ± along said center line to a point;

thence Due E 175 feet ± to a point in the thread of said Finn Basin Brook;

thence generally southerly 450 feet ± down said thread to the beginning.

Bearings are referred to a line whose bearing is magnetic as of 1970.

DESCRIPTION OF PHASE IV (25 March 1977)

Beginning at the point of intersection of the threads of Mill Brook and Finn Basin Brook located 15 feet ± northerly along the Mill Brook thread from a point directly below a point in the center line of Battleground Road bearing easterly along center line 147.50 feet from a point in the center line of the traveled way of Vermont Route 17 located about 3.1 miles generally westerly along said Route 17 from Vermont Route 100 and 500 feet ± southerly along said Route 17 center line from its intersection with the northeasterly line of original town Lot 14 in the 6th Range and 2300 feet ± southerly along said Route 17 center line from High Falls Bridge over Mill Brook;

thence generally northerly 760 feet ± up said thread of Mill Brook to a point;

thence Due E 167 feet ± to the center line of Finn Basin Road;

thence S 3° 15' W 223 feet ± along said center line to the point of curvature of a 209.77 foot radius curve with a deflection angle of 41° 45' to the right;

thence southerly 152.85 feet along said curve (last said center line) to a point of compound curvature;

thence southerly 135.05 feet along an 88.77 foot radius curve with a deflection angle of 88° 09' 35" to the left to its point of tangency;

thence S 43° 09' 35" E 55.32 feet to the said thread of Finn Basin Brook;

thence southwesterly 265 feet ± down said thread to the beginning.

Bearings are referred to a line whose bearing is magnetic as of 1970.

DESCRIPTION OF PHASE V (25 March 1977)

Beginning at a point in the center line of the traveled way of Vermont Route 17 located about 3.1 miles generally westerly along said Route 17 from Vermont Route 100 and 500 feet ± southerly along said Route 17 center line from its intersection with the northeasterly line of original town Lot 14 in the 6th Range and 2300 feet ± southerly along said Route 17 center line from High Falls Bridge over Mill Brook;

thence N 86° 09 ½ ' E 57.50 feet along Battleground Road base line to a point;

thence N 61° 20' E 80.00 feet along Battleground Road center line to a point in the thread Mill Brook;

thence generally southerly 1160 feet ± down said thread to a point in the line of land now or formerly of The Sugar River Company;

thence S 80° W 98 feet ± to said Route 17 center line;

thence northerly 830 feet ± along said center line to the beginning.

Bearings are referred to a line whose bearing is magnetic as of 1970.

This Phase is subject to highway rights for Vermont Route 17.

AMENITIES

The several amenities shown on the plat hereinafter referred to and labeled "greenhouse", "paddle tennis", "swimming pool" and "tennis courts" (subject to revised location upon construction) shall be owned, maintained, repaired and replaced, in common, by the owners of condominium apartments in all Phases, said repair, maintenance and replacement costs to be borne by the condominium apartment owners in all Phases in proportion to each unit owner's percentage of common ownership interest in the then completed amenities.

The condominium apartment owners of all Phases shall have, in common, the right to cross lands of other Phases, to cross common areas and to enter and use the said amenities.

DRAINAGE STRUCTURE

The 48 inch culvert shown on the plat hereinafter referred to as running from a water course across the northerly end of Phase II and through Phase I between Groups G and J to Finn Basin Brook, including any inlet structure and a right of way twenty-four (24) feet wide, the center line of which is the culvert center line (said right of way shall encompass any inlet water diversion structure by twelve (12) feet), shall be owned, maintained, repaired and replaced, in common, by the owners of condominium apartments in all Phases, said repair, maintenance and replacement costs to be borne by the condominium apartment owners in all Phases in proportion to each unit owner's percentage of common ownership interest in the then completed drainage structure.

COMMON LANDS

The areas labeled "common" on the plat hereinafter referred to shall be owned by the owners of the condominium apartments, in common, in all Phases, subject to reserved rights and easements mentioned elsewhere herein pertaining to water systems, sewer pipe lines, waste water disposal areas, utility line reservations and amenities. The common land is also subject to rights for Vermont Route 17.

The repair, maintenance and replacement costs of said common lands are to be borne by the condominium apartment owners in all Phases in proportion to each unit owner's percentage of common ownership interest in the then completed common lands.

PLAT (revised 25 march 1977)

The five Phases, common areas, roads, facilities and amenities are shown on a plat consisting of three sheets entitled "The Battleground, Fayston, Vermont, December, 1974, by Keller and Lowe, Inc., Waterbury, Vermont, Scale - 1 inch = 200 feet (sheet 1) and 1 inch = 50 feet (sheets 2 & 3)" (K & L No.1208-89), as revised, the latest revision being dated 25 March 1977, a copy of which is filed in the Fayston land records Map Book 4, Page 28.

SEWER PIPE LINES

All sewer lines, lift stations and other necessary equipment for the septic systems serving the development shall be considered common facilities, even if a particular septic system serves only one Phase of the development. The costs or maintenance, repair and replacement shall be borne by the Association and shall be divided among the unit owners in accordance with their undivided ownership interests.

WASTE WATER DISPOSAL AREAS

Included in each Phase and in each Group within the Phase is an easement for the exclusive use of their respective waste water disposal areas and replacement areas where they are located in the common areas as shown on the plat mentioned herein (subject to revised location upon installation of the disposal facilities). Said exclusive use is limited to construction, reconstruction, maintenance and waste water disposal and the leach field facilities shall be owned and maintained, repaired and replaced by the designated condominium apartment owners in each Phase in common with the owners in the same Phase, said maintenance, repair and replacement costs to be borne by the designated condominium apartment owners in each Phase in proportion to each unit owners percentage of common ownership on the then completed waste water disposal areas serving the designated condominium apartment owners.

WATER SYSTEM

The water system, including wells, reservoirs, pumping stations, pipe lines and other necessary equipment, with a twenty (20) foot wide right of way, the center line of which is the particular pipe line as shown on the plat mentioned herein (subject to revised location after installation of the pipe lines is completed) shall be owned, maintained, repaired and replaced, in common, by the owners of condominium apartments in all Phases, said repair, maintenance and replacement costs to be borne by the condominium apartment owners in all Phases in proportion to each unit owner's percentage of common ownership interest in the then completed water system.

UTILITY LINE RESERVATION

Reserved from each Phase are rights to lay, re-lay and maintain all underground electric and telephone lines with a twelve (12) foot wide right of way the center line of which is the particular utility line as shown on the plat mentioned herein (subject to revised location after installation of the lines and transformers is completed). Said right of way is modified at transformer sites to six (6) feet outside of and around the transformer. Said sight of way is restricted in width and any points where the utility line or transformer is closer than six (6) feet to buildings or other structures that limit excavation. Said electric and telephone lines and transformers are owned by the utility companies and said right of ways will be conveyed to the respective companies by Battleground Associates.

To the extent required, lines running from the main lines or transformers owned by the respective electric utility companies to the individual condominium building service entrances shall be owned, repaired, replaced and maintained, in common, by the owners of the condominium apartments in the Phase or building, said repair, maintenance and replacement costs to be borne by the condominium apartment owners in all Phases in proportion to each unit owner's percentage of common ownership interest in the then completed utility lines.

USE AND RECREATION EASEMENTS IN FAVOR OF THIRD PARTIES

"The interior roads, bridges and recreational facilities of The Battleground Condominiums, Phases I-V are subject to a use easement running in favor of the General Partner of the Battleground, a Vermont Limited Partnership (the Developer), its successors and assigns, subject to the provision that, to the extent the same are utilized by the General Partner of The Battleground, its successors and assigns, the General Partner of The Battleground, as aforesaid, its successors and assigns, shall share pro rata in the costs of maintaining, repairing and replacing the said interior roads, bridges and recreation facilities."

EXHIBIT B

The contents of Exhibit B shall remain exactly as they were immediately prior to the adoption of this **Third** Amended and Restated Declaration of Condominium. Exhibit B, as previously amended, is incorporated herein by reference.

In addition to the original Declaration and any amendments thereto, reference is specifically made to the floorplans which have been filed (not recorded) in the Fayston land record and the following certifications which have been recorded or filed in the Fayston land record:

Affidavit of Robert Williams, Architect, dated January 8, 1975 and recorded as Exhibit E to the original Declaration of Condominium at book 30, page 328.

Affidavit of John Stuart, Licensed Engineer, as to Groups A, G and J (Phase I) dated October 21, 1976 and recorded at book 33, page 98.

Affidavit of John Stuart, Licensed Engineer, filed with the floorplans for Groups B, C and M (Phase II) on or about October 22, 1976.

Affidavit of John Stuart, Licensed Engineer, filed with the floorplans for Groups H and L (Phase IV) and signed on or about March 24, 1977.

Affidavit of John Stuart, Licensed Engineer, filed with the floorplans of Groups D, E and F (Phase V) on or about August 26, 1977.

Affidavit of John Stuart, Licensed Engineer, filed with the floorplans of Groups I, K and N (Phase III) on or about March 28, 1977.

EXHIBIT "C"
THE BATTLEGROUND

STATEMENT OF VALUE AND INTEREST

Group	Original Unit #	New Unit #	Description	No. of Rooms	Sq. Ft.	% Interest				
						Phase I	Phase I & II	Phase I-III	Phase I-IV	Phase I-V
A	1B	1	2BR, 1 BKRM	6	1,152	6.83	3.65	2.53	1.89	1.51
A	2D	2	2BR, 2 BKRM	7	1,488	8.83	4.71	3.26	2.43	1.94
A	3E	3	5BR OR 2 Apartments	9	1,820	10.81	5.75	4	3	2.37
A	4A	4	2BR, Loft	5	918	5.45	2.91	2.02	1.51	1.21
A	5C	5	3 Bedroom	6	1,148	6.81	3.64	2.53	1.89	1.51
G	1B	20	2BR, 2 BKRM	7	1,359	6.83	3.65	2.53	1.89	1.51
G	2A	21	2BR, Loft	5	1,143	5.45	2.91	2.02	1.51	1.21
G	3C	22	3BR, 1 BKRM	7	1,281	6.81	3.64	2.53	1.89	1.51
G	4D	23	2BR, 2 BKRM	7	1,424	8.83	4.71	3.26	2.43	1.94
J	1A	28	2BR, Loft	5	1,143	5.45	2.91	2.02	1.51	1.21
J	2C	29	3BR, 1 BKRM	7	1,260	6.81	3.64	2.53	1.89	1.51
J	3D	30	2BR, 2 BKRM	7	1,536	8.83	4.71	3.26	2.43	1.94
J	4A	31	2BR, Loft	5	1,143	5.45	2.91	2.02	1.51	1.21
J	5C	32	3BR, 1 BKRM	7	1,281	6.81	3.64	2.53	1.89	1.51
B	1A	6	2BR, Loft	5	1,325	2.91	2.91	2.02	1.51	1.21
B	2F	7	2BR, 1 BKRM	5	989	2.91	2.91	2.02	1.51	1.21
B	3B	8	2BR, 2 BKRM	7	1,348	3.65	3.65	2.53	1.89	1.51
B	4C	9	3 Bedroom	6	1,183	3.64	3.64	2.53	1.89	1.51
C	1F	10	2BR, 1 BKRM	5	989	2.91	2.91	2.02	1.51	1.21
C	2A	11	2BR, Loft	5	1,325	2.91	2.91	2.02	1.51	1.21
C	3B	12	2BR, 2 BKRM	7	1,348	3.65	3.65	2.53	1.89	1.51
C	4C	13	2BR, 2 BKRM	7	1,295	3.64	3.64	2.53	1.89	1.51
M	1A	14	2BR, Loft	5	1,325	2.91	2.91	2.02	1.51	1.21
M	2B	15	2BR, 2 BKRM	7	1,348	3.65	3.65	2.53	1.89	1.51
M	3C	16	2BR, 2 BKRM	7	1,295	3.64	3.64	2.53	1.89	1.51
M	4F	17	2BR, 1 BKRM	5	989	2.91	2.91	2.02	1.51	1.21
M	5B	18	2BR, 2 BKRM	7	1,348	3.65	3.65	2.53	1.89	1.51
M	6C	19	3BR, 1 BKRM	7	1,295	3.64	3.64	2.53	1.89	1.51

EXHIBIT "C"
THE BATTLEGROUND

STATEMENT OF VALUE AND INTEREST

Group	Original Unit #	New Unit #	Description	No. of Rooms	Sq.Ft.	% Interest									
						Phase I	Phase I & II	Phase I-III	Phase I-IV	Phase I-V					
D	1G	51	2 BR	6	1,091										1.55
D	2H	52	3 Bedroom	7	1,308										1.79
D	3G	53	2 BR	6	1,091										1.55
D	3H	54	3 Bedroom	7	1,308										1.79
E	1H	55	3 Bedroom	7	1,308										1.79
E	2G	56	2 BR	6	1,091										1.55
E	3H	57	3 Bedroom	7	1,308										1.79
F	1H	58	3 Bedroom	7	1,308										1.79
F	2G	59	2 BR	6	1,091										1.55
F	3H	60	3 Bedroom	7	1,308										1.79
F	4G	61	2 BR	6	1,091										1.55
F	5H	62	3 Bedroom	7	1,308										1.79
F	6G	63	2 BR	6	1,091										1.55
H	1G	33	2 BR	6	1,091								1.95		1.55
H	2H	34	3 Bedroom	7	1,308								2.25		1.79
H	3G	35	2 BR	6	1,091								1.95		1.55
H	4H	36	3 Bedroom	7	1,308								2.25		1.79
H	5G	37	2 BR	6	1,091								1.95		1.55
H	6H	38	3 Bedroom	7	1,308								2.25		1.79
I	1G	50	2 BR	6	1,091			2.6					1.95		1.55
I	2H	49	3 Bedroom	7	1,308			3					2.25		1.79
I	3G	48	2 BR	6	1,091			2.6					1.95		1.55
I	4G	47	2 BR	6	1,091			2.6					1.95		1.55
I	5H	46	3 Bedroom	7	1,308			3					2.25		1.79
K	1G	24	2 BR	6	1,091			2.6					1.95		1.55
K	2H	25	3 Bedroom	7	1,308			3					2.25		1.79
K	3G	26	2 BR	6	1,091			2.6					1.95		1.55
K	4H	27	3 Bedroom	7	1,308			3					2.25		1.79

EXHIBIT "C"
THE BATTLEGROUND

STATEMENT OF VALUE AND INTEREST

Group	Original Unit #	New Unit #	Description	No. of Rooms	Sq.Ft.	% Interest				
						Phase I	Phase I & II	Phase I-III	Phase I-IV	Phase I-V
L	1H	39	3 Bedroom	7	1,308				2.25	1.79
L	2G	40	2 BR	6	1,091				1.95	1.55
L	3H	41	3 Bedroom	7	1,308				2.25	1.79
L	4G	42	2 BR	6	1,091				1.95	1.55
L	5H	43	3 Bedroom	7	1,308				2.25	1.79
N	1G	45	2 BR	6	1,091			2.6	1.95	1.55
N	2H	44	3 Bedroom	7	1,308			3	2.25	1.79

EXHIBIT D

BY-LAWS OF THE BATTLEGROUND CONDOMINIUM OWNERS' ASSOCIATION, INC.

AMENDED AND RESTATED AS OF NOVEMBER 2, 2002

ARTICLE I. GENERAL

SECTION 1. The Name: The name of the Association shall be The Battleground Condominium Owners' Association, Inc.

SECTION 2. Principal Office: The principal office of the Association shall be at RR #1, Box 89, Waitsfield, Vermont, or at such other place as may be subsequently designated by the Board of Directors.

SECTION 3. Definitions: All words used herein shall have the same definitions as attributed to them in the Second Amended and Restated Declaration of Condominium Ownership of The Battleground Condominiums (the "Declaration").

SECTION 4. Identity: These By-Laws are established pursuant to the Vermont Condominium Ownership Act, Title 27, Vermont Statutes annotated, Sections 1301-1329, as amended.

SECTION 5. Force and Effect: These By-Laws supplement the Third Amended and Restated Declaration of Condominium of the Battleground Condominium filed in the Land Records of the Town of Fayston, Vermont. All present and future Unit Owners or tenants, invitees, employees, and agents, and any other person using any portion of the condominium property in any manner are, and their use and enjoyment thereof is, subject to compliance with these By-Laws as from time to time amended. The mere acquisition or rental or use of any Unit shall be deemed to constitute acceptance of and an agreement with these By-Laws and the Regulations adopted hereunder as from time to time amended.

ARTICLE II. DIRECTORS

SECTION 1. Number and Term: The number of directors who shall constitute the whole board shall be seven (7). The directors shall be elected at the annual meeting of the members, and each director shall be elected to serve for the term of one (1) year or until his or her successor shall be elected and shall qualify.

SECTION 2. Vacancy and Replacement: If the office of any director or directors becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, a majority of the remaining directors, though less than a quorum, at a special meeting of directors duly called for this purpose, shall choose a successor or successors, who shall hold office for the unexpired term in respect to which such vacancy occurred.

SECTION 3. Removal: Directors may be removed for cause by an affirmative vote of the majority of the members. No director shall continue to serve on the board if, during his or her term in office, his or her membership in the Association shall be terminated for any reason whatsoever.

SECTION 4. Powers: The property and business of the Association shall be managed by the Board of Directors, who may exercise all powers not specifically prohibited by statute, the Articles of Association, or the Declaration. The powers of the Board of Directors shall specifically include, but not be limited to, the following items:

A. To make and collect assessments and establish the time within which payment of same is due.

B. To use and expend the assessments collected to maintain, care for and preserve the Units and condominium property, except those portions thereof, which are required to be maintained, cared for and preserved by the Unit Owners.

C. To purchase the necessary equipment and tools required in the maintenance, care and preservation referred to above.

D. To enter into and upon the Units when necessary and with as little inconvenience to the Unit Owner as possible in connection with such maintenance, care and preservation.

E. To insure and keep insured said condominium property in the manner set forth in the Declaration against loss from fire and/or other casualty, and the Unit Owners against public liability, and to purchase such other insurance as the Board of Directors may deem advisable.

F. To collect delinquent assessments by suit or otherwise, abate nuisances and enjoin or seek damages from the Unit Owners for violation of these By-Laws and the terms and conditions of the Declaration.

G. To employ and/or contract with, if deemed desirable, a maintenance service contractor and/or manager who shall maintain, service and/or manage the buildings and related common areas and facilities, and to delegate to such contractor or manager such powers as may be necessary in connection with the operation of the buildings. To employ workmen, janitors and gardeners and to purchase supplies and equipment, to enter into contracts in connection with any of the foregoing items or for other services deemed desirable, and generally to have powers of a condominium manager in connection with the matters hereinbefore set forth.

H. To make reasonable rules and regulations for the occupancy of the Units and common areas and facilities and to generally oversee matters pertaining to the common areas and facilities.

I. To establish and maintain a rental program and to promulgate rules and regulations which govern the manner in which Units are rented and the procedures to be followed with respect to said rentals.

J. To regulate, condition, approve or deny applications for exterior alterations to windows, doors and decks (including deck expansions) and the construction or alteration of exterior storage closets. Such alterations may be approved by affirmative vote of not less than 75% of the Board of Directors, upon receipt of a properly documented request with associated narrative, drawings and specifications and such other documents as the Board of

Directors may reasonably request. No written agreement shall be required for the exterior alterations specifically contemplated by this Subsection J.

K. To regulate, approve or deny applications for interior alterations which involve the expansion of a unit into interior Common Area or Limited Common Area. Such alterations include expansions into basements, unfinished spaces behind unit walls or into the spaces above ceilings for the purpose of creating additional living area or storage space for the use of a designated unit. Such alterations may be approved by an affirmative vote of not less than 75% of the Board of Directors on such terms and conditions as the Board deems appropriate including leasing Common Area or Limited Common Area. The Board's authority with respect to interior alterations to Common Area is limited to the following mandatory guidelines:

Mandatory Guidelines

- (1) The Unit Owner shall establish that all permits required for the alteration have been obtained and that the alteration complies and will comply with all applicable building codes and existing permits.
- (2) The alteration shall be completed solely at the expense of the Unit Owner making the alteration.
- (3) The proposed alteration shall not increase the number of bathrooms or bedrooms in the unit or increase the demand on the water and sewer systems serving the condominium.
- (4) Alterations to Common Area or Limited Common Area will continue to be Common Area or Limited Common Area after the alteration. Neither the square footage of the unit nor the undivided ownership interest appurtenant to the unit shall be increased.
- (5) All costs associated with the maintenance, replacement or repair of the alteration shall, in most cases, be borne solely by the Unit Owner and not by the Association. The Association may, however, at its option, repair, replace and maintain the altered area after the alteration if the expense is negligible and can be easily accomplished by the Association. I.e. deck maintenance.
- (6) The Unit Owner shall indemnify the Board and the Association from any claim, liability, cost, expense, loss or damage (including fees and disbursements of counsel) which results, directly or indirectly, from the alteration, the terms of such an indemnification to be satisfactory to the Board.
- (7) The alteration shall become a part of the Unit for all purposes of this Declaration and the By-Laws of the Owners' Association except as set forth in paragraph (4) above. Without limiting the generality of the preceding sentence, the Unit Owner shall grant to the Association a right of entry for (i) inspection at any time and (ii) the repair or restoration of the altered area, at the Unit Owner's expense, to be exercised in the event that a Unit Owner fails to comply with any terms and conditions imposed by the Board or by the Declaration or By-Laws.

- (8) A suitable Memorandum of Agreement or other similar document should be recorded in the Fayston Land Records or other filing office deemed appropriate by the Board so that prospective purchasers will have notice of the alterations and the terms upon which they have been approved.
- (9) The proposed alterations shall not, in the Board's judgment, have an adverse impact on the appearance or value of Common Area.
- (10) The Unit Owner seeking to improve or encroach on Limited Common Area shall be the only Unit Owner entitled to use the altered Limited Common Area under the terms of the Declaration of Condominium.
- (11) The Unit Owner shall agree that any amounts payable to the Association, which are either the direct or indirect result of the alteration, including but not limited to rents, increased insurance costs, indemnifications, attorney fees, repair and maintenance costs, restoration costs, collections costs, or cost of repairing damage to Common Area or Limited Common Area or other units shall constitute a lien against the unit in the same manner and to the same extent as condominium dues and assessments.
- (12) In cases where Common Area or Limited Common Area is to be converted to interior living space, a reasonable rental shall be paid to the Association.

L. To establish from time to time procedures and requirements governing requests by a Unit Owner for alterations to a particular unit, and the regulation, approval, conditioning or denial of such requests.

M. To negotiate and execute written agreements, memoranda, indices or other documents which are necessary or convenient to comply with the provisions of the preceding Subsection K.

N. To negotiate and execute written agreements consistent with the guidelines set forth in Subsection K with Unit Owners who altered their units prior to the date of this Amendment, recognizing that more flexibility may be required to address existing alterations. This is particularly true where Owners received Association approval for alterations which were completed prior to the implementation of these guidelines.

O. The Board of Directors is authorized to approve exterior common alterations which are beyond the scope of Subsections J and K and only after approval by the ownership in accordance with the following procedure.

- (1) Any Owner wishing to perform exterior Common Area alterations which are beyond the scope of Subsections J and K shall submit a written request to the Board of Directors together with associated narrative, drawings and specifications and such other documents and information as the Board of Directors may reasonably request at least sixty (60) days prior to the next general meeting of the Owners.
- (2) Upon receipt of a properly documented request, and provided that the Board of Directors shall have approved the requested alteration by an affirmative vote

of not less than seventy-five percent (75%) of its members, the Board of Directors shall place the request on the Agenda for the upcoming meeting of Owners. In determining whether the seventy-five percent (75%) vote required by this paragraph (2) has been achieved, if the product of multiplying the number of members of the Board of Directors by seventy-five percent 75% results in a number that is not a whole number, then the product shall be increased to the next higher whole number if the fraction is .5 greater or decreased to the next lower whole number if the fraction is .5 less.

- (3) Notice that the request will be presented to the Owners for approval or disapproval will be duly warned in the Notice of Meeting.
- (4) If the holders of at least seventy-five percent (75%) of the undivided ownership interest in the condominium vote at the meeting, in person or by proxy, to approve the request for the alterations, the alterations shall be approved.
- (5) In said event, the Board of Directors shall approve the alterations subject to the mandatory guidelines previously set forth in Article II Sections K(1)-(9) and (11)-(12).

SECTION 5. Compensation: Directors or officers, as such, shall receive no salary for their services.

SECTION 6. Meetings:

A. The first meeting of each board newly elected by the members shall be held immediately upon the adjournment of the meeting at which they were elected, provided a quorum shall be present, or as soon thereafter as may be practicable. The annual meeting of the Board of Directors shall be held at the same place as the general members' meeting, and immediately after the adjournment of same.

B. No notice of a Board of Directors' meeting shall be required if the directors meet by unanimous written consent. The directors may, by resolution duly adopted, establish regular monthly, quarter-annual or semi-annual meetings. If such resolution is adopted, no notice of such regular meetings of the Board of Directors shall be required.

C. Special meetings of the board may be called by the president on five (5) days' notice to each director. Special meetings shall be called by the president or secretary in a like manner and on like notice on the written request of three (3) directors.

D. At all meetings of the board, a majority of the directors shall be necessary and sufficient to constitute a quorum for the transaction of business, and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by statute or by the Articles of Association or these By-Laws. If a quorum shall not be present in any meeting of directors, the directors present thereat may adjourn the meeting from time to time without notice other than announcement at the meeting until a quorum shall be present.

E. Members of the Board of Directors and members of any committee designated by the Board of Directors may participate in a meeting of such board or committee by means

of a conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear each other, and the participation in a meeting in such a manner, shall constitute presence in person at such meeting.

SECTION 7. Order of Business: The order of business at all meetings of the board shall be as follows:

- A. Roll Call
- B. Reading of the minutes of last meeting.
- C. Consideration of communications.
- D. Resignations and elections.
- E. Report of officers and employees.
- F. Reports of Committees.
- G. Unfinished business.
- H. Original resolutions and new business.
- I. Adjournment.

SECTION 8. Annual Statement: The board will present, not less often than at the annual meetings and when called for by a vote of the members at any special meeting of the members, a full and clear statement of the business and condition of the Association.

Article III. OFFICERS

SECTION 1. Executive Officers: The executive officers of the Association shall be a president, vice president, treasurer and secretary-clerk, all of whom shall be elected annually by said board. Any two of said offices may be united in one person, except that the president shall not also be the secretary or an assistant secretary of the Association. If the board so determines, there may be more than one (1) vice president.

SECTION 2. Appointive Officers: The Board of Directors may appoint such other officers and agents that it may deem necessary, who shall hold office during the pleasure of the Board of Directors and have such authority and perform such duties as from time to time may be prescribed by said board.

SECTION 3. Election: The Board of Directors at its first meeting after each annual meeting of the general members shall elect a president, a secretary and a treasurer, none of whom, except the president, need be a member of the board.

SECTION 4. Term: The officers of the Association shall hold office until their successors are chosen and qualify in their stead. Any officer elected or appointed by the Board of Directors may be removed, for cause, at any time by the affirmative vote of a majority of the whole Board of Directors.

SECTION 5. The President:

A. The president shall be the chief executive officer of the Association: he or she shall preside at all meetings of the members and directors: shall be ex officio member of all standing committees; shall have general and active management of the business of the Association, and shall see that all orders and resolutions of the board are carried into effect.

B. He or she shall execute bonds, mortgages and other contracts requiring a seal, under the seal of the Association, except where the same is required or permitted by law to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the Board of Directors to other officers or agents of the Association.

SECTION 6. The Secretary-Clerk:

A. The secretary-clerk shall keep the minutes of the members' meetings and of the Board of Directors' meetings in one or more books provided for that purpose.

B. He or she shall see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law.

C. He or she shall be custodian of the Association records and of the seal of the Association and shall see that the seal of the Association is affixed to all documents, the execution of which on behalf of the Association under its seal is duly authorized in accordance with the provisions of these By-Laws.

D. He or she shall keep a register of the post office address of each member, which shall be furnished to the secretary-clerk by such member.

E. In general, he or she shall perform all duties incident to the office of secretary-clerk and such other duties as from time to time may be assigned by the president or by the Board of Directors.

SECTION 7. The Vice President: The vice president shall be vested with the all the powers and required to perform all the duties of the president in his or her absence, and such other duties as may be prescribed by the Board of Directors.

SECTION 8. The Treasurer:

A. The treasurer shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association, and shall deposit all monies and other valuable effects in the name of and to the credit of the Association in such depositories as may be designated by the Board of Directors, the Articles of Association or these By-Laws.

B. He or she shall disburse the funds of the Association as ordered by the board, taking proper vouchers for such disbursements, and shall render to the president and directors, at the regular meetings of the board, or whenever they may require it, an account of all his or her transactions, as treasurer and of the financial condition of the Association.

C. He or she may be required to give the Association a bond in a sum and with one or more sureties satisfactory to the board, for the faithful performance of the duties of the office, and the restoration to the Association, in case of his death, resignation or removal from office, of all books, papers, vouchers, money or other property of whatever kind in his possession belonging to the Association.

SECTION 9. Vacancies: If the office of any director, or of the president, vice-president, secretary or treasurer, or one or more, becomes vacant by reason of death, resignation,

disqualification or otherwise, the remaining directors, by a majority vote of the whole Board of Directors provided for in these By-Laws may choose a successor or successors who shall hold office for the unexpired term.

SECTION 10. Resignations: Any director or officer may resign his or her office at any time, such resignation to be made in writing, and to take effect from the time of its receipt by the Association, unless some time is fixed in the resignation, and then from that date. The acceptance of a resignation shall not be required to make it effective.

Article IV. MEMBERSHIP

SECTION 1. Unit Membership: Each Unit shall be entitled to one membership in the Association.

SECTION 2. Transfer of Membership: Membership in the Association may be transferred only as an incident to the transfer of the transferor's Unit and such transferor's undivided interest in the Common Areas and Facilities of the condominium, and such transfers shall be subject to the procedure set forth in the Declaration.

SECTION 3. Voting Members: If a Unit is owned by one individual, that individual shall be a voting member. An individual Unit Owner shall continue to be a voting member until title to the unit is transferred as evidenced by a deed, recorded in the Land Records of the Town of Fayston, Vermont

In the event that a Unit is owned by more than one individual or by a partnership, the individual(s) or entities holding a majority interest in the Unit shall designate a single voting member from among themselves and shall provide the Association's secretary with written notice of the designated voting member's name.

In the event that a Unit is owned by a corporation, the corporate secretary shall provide the Association's secretary with a certificate designating the person authorized to act as a voting member on behalf of the corporation. A designated voting members shall continue to vote on behalf of his or her Unit until such time as another person is properly designated in accordance with the foregoing or until title to the Unit is transferred, as evidenced by a deed, recorded in the land records of the town of Fayston, Vermont, whichever comes first.

SECTION 4. Voting: The single vote to be cast for each Unit shall be accorded the same weight as the undivided ownership interest appurtenant to that Unit as set forth in the Declaration.

ARTICLE V. MEETINGS OF MEMBERSHIP

SECTION 1. Place: All meetings of the Association membership shall be held at the office of the Association or such other place as may be stated in the notice.

SECTION 2. Annual Meetings: Regular annual meetings shall be held on the first Saturday of November of each succeeding year if not a legal holiday, then on the next secular day following, at a time and place to be specified in the notice of meeting.

SECTION 3. Membership List: At least ten (10) days before every election of directors, a complete list of members entitled to vote at said elections, arranged numerically by Unit with the residence of each, shall be prepared by the secretary, and such list shall be produced and kept for said ten (10) days and throughout the election at the office of the Association and shall be open to examination by any member throughout such time.

SECTION 4. Notice: Written notice of the annual meeting of members stating the time, place and object thereof shall be served upon or mailed to each member entitled to vote thereat, at such addresses as appear on the books of the Association, at least fifteen (15) days before such meeting.

SECTION 5. Special Meetings:

A. Special meetings of the members for any purpose or purposes, unless otherwise prescribed by statute or by the Articles of Association, may be called by the president, and shall be called by the president and secretary at the request of the Board of Directors, or at the request, in writing, of ten (10) members. Such request shall state the purpose or purposes of the proposed meeting.

B. Written notice of a special meeting of members stating the time, place and object thereof shall be served upon or mailed to each member entitled to vote thereat, at such addresses as appear on the books of the Association, at least fifteen (15) days before such meeting.

C. Business transacted at all special meetings shall be confined to the objects stated in the notice thereof.

SECTION 6. Right to Vote: At any meeting of the members every member having the right to vote shall be entitled to vote in person or by proxy. Such proxy shall only be valid for such meeting or subsequent adjourned meetings thereof.

SECTION 7. Vote Required to Transact Business: When a quorum is present at any meeting, the majority of the vote of the members present in person or represented by written proxy shall decide any question brought before the meeting, unless the question is one upon which, by express provision of the Vermont Statutes, the Declaration of Condominium, the Articles of Association or of these By-Laws, a different vote is required, in which case such express provision shall govern and control the decision of such question.

SECTION 8. Quorum: Fifty-one (51%) percent of the total number of members of the Association present in person or represented by a written proxy, shall be requisite to and shall constitute a quorum at all meetings of the members for the transaction of business, except as otherwise provided by statute, by the Articles of the Association or by these By-Laws. If, however, such quorum shall not be present or represented at any meeting of the members, the members entitled to vote thereat, present in person or represented by written proxy, shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting originally called.

SECTION 9. Waiver and Consent: Whenever the vote of members at a meeting is required or permitted by any provision of the statutes or the Articles of Association or these By-Laws to be taken in connection with any action of the Association, the meeting and vote of members may be dispensed with if all the members who would have been entitled to vote upon the action of such meeting if such meeting were held shall consent in writing to such action being taken.

ARTICLE VI. NOTICE

SECTION 1. Definition: Whenever under the provisions of the statutes or of the Articles of Association or of these By-Laws notice is required to be given to any director or member, it shall not be construed to mean personal notice; but such notice may be given in writing by mail, by depositing the same in a post office or letter box in a postpaid, sealed wrapper addressed as appears on the books of the Association.

SECTION 2. Service of Notice -- Waiver: Whenever any notice is required to be given under the provisions of the statutes or the Articles of Association or of these By-Laws, a waiver thereof in writing, signed by the person or persons entitled to such notice whether before, or after the time stated therein, shall be deemed the equivalent thereof.

ARTICLE VII. FINANCES

SECTION 1. Fiscal Year: The fiscal year shall begin the first day of January, each year. The Board of Directors is expressly authorized to change the fiscal year at any time for the convenience of the Association.

SECTION 2. Checks: All checks or demands for money and notes of the Association, except that checks or demands in any amount greater than \$10,000.00 shall be signed by two (2) of said officers, shall be signed by any one (1) of the following officers: president, secretary or treasurer, or by such officer or officers or such other person or persons as the Board of Directors may from time to time designate.

ARTICLE VIII. SEAL

The Seal of the Association shall have inscribed thereon, the name of the Association, the year of its organization and the words "non-profit." Said seal may be used by causing it or a facsimile thereof to be impressed, affixed, reproduced or otherwise.

ARTICLE IX. ESCROW ACCOUNT FOR REAL PROPERTY TAXES

The Association shall have the option of allowing its individual members to account for the real property taxes on their condominium parcels by making payment therefore direct to the town treasurer in and for the Town of Fayston, Vermont; or, in the alternative, the Association shall provide for an escrow account for real property taxes in the following manner:

There shall be established, by the Association in a bank, a savings deposit account for the purpose of accumulating sufficient funds to pay individual real property taxes assessed for each condominium parcel.

On the first day of each and every month each Unit Owner may deposit with the treasurer, a sum that is determined by the Association to be calculated upon a monthly basis for the real property taxes for the year; and on the first day of November each year, the treasurer shall re-calculate the said sums based upon the estimated or known yearly real property tax assessments in order to establish substantially current escrow sums for the subsequent year.

The treasurer shall at all times maintain a current register containing, among other things, the name of each Unit Owner, together with his or her amount of escrow deposit paid in to the Association by said Owner.

Upon a Unit Owner's receipt of the real property tax bill, he or she shall present same to the treasurer for payment. Upon presentation, the treasurer shall inform the Unit Owner of any tax deficiency in order to pay said taxes and in the event of a deficiency, the Unit Owner shall deposit forthwith said deficiency sum with the treasurer. The treasurer shall, within three (3) days of presentation, cause a draft to be issued from the account in the amount of the tax bill payment to the taxing authority. In the event of an overage accumulated deposit of escrow funds by any Unit Owner, the treasurer, upon a Unit Owner's request, shall cause a draft to be issued from said account payable to the Unit Owner and deliver same to the Unit Owner, provided that the overages may be claimed only during the months of January and February of each year, and after said Unit Owner's current real property tax bill has been paid in full.

In the event a Unit Owner does not present for payment a tax bill, or evidence of a paid-in-full property tax bill for his or her parcel on or before November 1st of each year, then the treasurer shall, without notice, cause a draft to be issued from said account in the sum of the tax bill, if said Unit Owner has paid a like sum into escrow, and shall pay said sum to the taxing authorities for and on behalf of said Unit Owner. In the event such Owner does not have sufficient escrow funds on hand to pay said taxes, the treasurer shall issue an assessment against such Unit Owner for any deficiency amount, which assessment shall be payable within three (3) days of notification of same, and shall constitute a special assessment pursuant to and enforceable under the terms, conditions and covenants of the Declaration of Condominium Ownership and these By-Laws.

The requirement for payment of escrow deposit as hereinabove stated shall be considered a special assessment levied upon the individual Unit Owner which shall be enforceable upon the same terms and conditions wherein the Owner's default was for non-payment of any assessment required to be paid pursuant to the Declaration of Condominium Ownership.

Any interest earned on said escrow account shall be distributed among those who have contributed it in proportion to their undivided ownership interest as set forth in Exhibit C of the Declaration.

Any Unit Owner required to establish a separate escrow tax account by an institutional mortgagee holding mortgage on his or her Unit shall not be required to deposit to escrow funds as hereinabove set forth, provided the treasurer is in receipt of a letter from said institution to the effect said tax escrow account is being maintained in accordance with said institution's rules and regulations.

Each Unit Owner shall be entitled to any benefits realized from homestead exemption for the purposes of any state and county real property taxes pro rata to his or her ownership of the common areas and facilities as more particularly set forth in the Declaration, only in the event the Unit Owner qualified for said homestead exemption.

However, whichever option the Association approves by a fifty-one (51%) percent vote of its membership shall be controlling on all members.

ARTICLE X. HOUSE RULES

In addition to the other provisions of the Declaration and of these By-Laws, the following house rules and regulations, together with such additional rules and regulations as may hereafter be adopted by the Board of Directors, shall govern the use of the condominium property and the conduct of all residents thereof.

- A. The Units shall be used only for residential purposes.
- B. Unit Owners shall not use or permit the use of their Units in any manner which would be disturbing or be a nuisance to other Unit Owners, or in such a way as to be injurious to the reputation of the condominium property.
- C. The use of the Units shall be consistent with existing law, these restrictions, and so long as such use does not constitute a nuisance.
- D. Units may not be used for business use or for any commercial use whatsoever.
- E. Common Areas and Facilities shall not be obstructed, littered, defaced or misused in any manner.
- F. No structural changes or alterations shall be made in any Unit, except upon approval of the Board of Directors.
- G. Parking spaces may be used in accordance with the allocations designated from time to time by the Association.

ARTICLE XI. DEFAULT

A. In the event a Unit Owner does not pay any sums, charges or assessments required to be paid to the Association within thirty (30) days from the due date, the Association, acting in its own behalf or through its Board of Directors or manager acting on behalf of the Association, may foreclose the lien encumbering the Unit created by non-payment of the required monies in the same fashion as mortgage liens are foreclosed. The Association shall be entitled to the appointment of a receiver if it so requests. The Association shall have the right to bid on the Unit at a foreclosure sale and to acquire, hold, mortgage and convey the same. The Association may, through its Board of Directors, or manager acting on behalf of the Association, or on its own behalf, bring suit to recover a money judgment for sums, charges or assessments required to be paid to the Association without waiving its lien against the Unit. The losing defendant shall pay the costs thereof, together with reasonable attorney's fees.

If an action of foreclosure is brought against a Unit Owner for the non-payment of monies due the Association and, as a result thereof, the interest of the Unit Owner in and to the Unit is terminated or sold, then, at the time of such termination or sale, the Unit Owner's membership shall be canceled and membership shall be issued to the Association in a strict foreclosure or to the purchaser in the event of a foreclosure sale.

If the Association becomes a Unit Owner by reason of foreclosure, it shall offer said Unit for sale and at such time as a sale is consummated, it shall deduct from such proceeds all sums of money due it for monthly assessments and charges, all costs incurred in bringing of the foreclosure suit, including reasonable attorney's fees, and any and all expenses incurred in the resale of the Unit which shall include, but not be limited to, advertising expenses, real estate brokerage fees and expenses and all expenses necessary for the repairing and refurbishing of the Unit in question.

B. In the event of a violation of the provisions of the Declaration, the Articles of Association or restrictions and By-Laws, as the same are now or may hereafter be constituted, the Association, on its own behalf, may bring appropriate action to enjoin such violation or to enforce the provisions of the documents just hereinabove enumerated, or sue for damages or take all such courses of action at the same time, or for such other legal remedy it may deem appropriate,

In the event of such legal action brought against a Unit Owner, the losing defendant shall pay plaintiff's reasonable attorney's fees and court costs. Each Unit Owner, for himself or herself, his or her heirs, successors and assigns, agrees to the foregoing provisions relating to the default and abatement of nuisance, regardless of the harshness of the remedy available to the Association and regardless of the availability of the other equally adequate legal procedure. It is the intent of all Unit Owners to give the Association a method and procedure which will enable it at all times to operate on a businesslike basis, to collect those monies due and owing it from the Unit Owners and to preserve each Unit Owner's right to enjoy his or her Unit free from unreasonable restraint and nuisance.

ARTICLE XII. REGISTERS

SECTION 1. The secretary of the Association shall maintain a register in the Association office showing the names and addresses of voting members.

SECTION 2. The Association shall maintain a suitable register for the recording of pledged or mortgaged Units. Any pledgee or mortgagee of a Unit may, but is not obligated to, notify the Association in writing of the pledge or mortgage. In the event notice of default is given any member, under an applicable provision of the By-Laws, the Articles of Association, or the Declaration of Condominium Ownership, a copy of such notice shall be mailed to the registered pledgee or mortgagee.

ARTICLE XIII. SURRENDER

In the event of the legal termination of a Unit Owner's ownership rights in favor of the Association the Unit Owner or any other person or persons in possession by or through the right of the Unit Owner shall promptly quit and surrender the Unit to the Association in good repair, ordinary wear and tear and damage by fire or other casualty excepted, and the Association shall have the right to re-enter and to repossess the Unit. The Unit Owner, for

himself or herself and any successor in interest, by operation of law or otherwise, hereby waives any and all notice and demand of possession if such be required by the laws of the State of Vermont, or the United States of America.

ARTICLE XIV. AMENDMENTS OF BY-LAWS

The By-Laws of the Association may be altered, amended or repealed, unless specifically prohibited herein, at any regular or special meeting of the members by a three-fourths (3/4) vote of undivided ownership interest in the Association, provided that notice of said membership meeting has been given in accordance with these By-Laws and that the notice as aforesaid contained a full statement of the proposed amendment. No modification or amendment to the By-Laws shall be valid unless set forth or annexed to a duly recorded amendment to the Declaration of Condominium Ownership.

ARTICLE XV. CONSTRUCTION

Wherever the masculine singular form of the pronoun is used in these By-Laws, it shall be construed to mean the masculine, feminine or neuter, singular or plural, whenever the context so requires.

Should any of the covenants herein imposed be void or be or become unenforceable at law, or in equity, the remaining provisions of this instrument shall, nevertheless, be and remain in full force and effect.

ARTICLE XVI. AGREEMENTS FOR USE OF OFF-SITE RECREATION FACILITIES

The president or such other officer as may be designated by the Board of Directors may execute and deliver on behalf of the Association, agreements under which recreational or other facilities are provided for the use of or benefit of Unit Owners and for which charges are assessed by the Association to Unit Owners as a part of the common expenses of the Association. The terms of such agreements shall be subject to the approval of the Board of Directors of the Association.

EXHIBIT E

THE BATTLEGROUND CONDOMINIUM

RULES AND REGULATIONS PROMULGATED BY THE BATTLEGROUND CONDOMINIUM ASSOCIATION, INC.

Restated as of November 4, 1995

All Unit owners are expected to abide by the standards herein established by The Battleground Condominium Association, Inc. and revised from time to time as required. These standards are intended to assure the integrity of The Battleground Condominium and protect property values. They are not intended to unduly interfere with, restrict and exclude, or artificially increase the cost of construction and maintenance.

1. All new construction shall conform to the standards of the latest edition of the national Building Code and all local and State standards and regulations.
2. All property must be provided with a lock and key system compatible with the master system maintained by the Association.
3. External colors or color changes must be approved by the Association.
4. No external television antennas may be erected.
5. Applied decorations such as banners, profuse flags, pennants, blinking lights, gaudy colors with the intent, stated or unstated, solely to attract attention shall be prohibited without the prior written consent of the Association.
6. The Association will publish annual charges for the use of water, sewer, swimming pool and tennis courts; maintenance of roads and parking lots, including snow removal from same; Unit grounds maintenance and rubbish removal and other services as are detailed in various management and service agreements.
7. The use of signs and symbols is to be solely for advertising the establishment on which said sign or symbol is erected. No sign or symbol may be erected without the approval of the Association in writing.
8. There shall be no use of common areas, exclusive of roads, except natural recreation uses which do not injure or scar the common areas or the vegetation thereon, increase cost of maintenance thereof, or cause unreasonable embarrassment, disturbance or annoyance to unit Owners in their enjoyment of their Units of common areas and facilities, including limited common areas and facilities.
9. There shall be no organized sports activities except in approved areas.

10. Common areas and facilities, which may be used for such temporary outdoor activities as dining, skating, art shows, exhibits, and the like shall require prior written approval by the Association for a specific use and time, and such use may not permanently alter or materially injure the landscape or appearance of the common lands.
11. All wheeled vehicles shall be registered to designated roads, service areas and parking areas. Motorscooters, bicycles and the like may not be used on any trail or in any area unless specifically posted for such use by the Association.
12. Use of snowmobiles, motorcycles, trail bikes and minibikes is prohibited.
13. The speed limit for all vehicles within the condominium property is 15 mph unless otherwise posted.
14. Unit Owners may not subdivide or lease any part of their premises without written approval by the Association or its designee or assignee said approval not be unreasonably withheld.
15. Unit owners will at all times maintain their Units in good condition and repair. If, after due notification, any Unit owner fails to maintain his or her Unit, the Association may complete the necessary work and charge the Unit Owner for all costs.
16. No offensive activities shall be carried on, nor anything be done or placed on private premises which may be a nuisance or cause unreasonable embarrassment, disturbance, or annoyance to Unit owners or the public.
17. With the prior written approval of the Association, only domestic house pets may be kept and in such areas as designated by the Association. Pets must be kept under control at all times.
18. No Unit owner may burn trash or refuse on the condominium property, except at such locations prescribed by the Association. All trash and refuse shall be stored in covered containers and kept in a location not visible from any adjoining property.
19. Storage of garden and maintenance equipment shall be in shelters or locations so as to not be visible from any adjoining property.
20. Firewood must be stored in an orderly manner if visible from any adjoining property.
21. Outside clotheslines or other outside clothes drying or airing facilities are not permitted in the common area, including limited common area.
22. No external fires are permitted on any land within the condominium area, except in approved equipment and only in specified locations.
23. No vending machines may be located so as to be visible to public view without written consent of the Association.

24. Screening structures or devices are required to shield from neighboring property such areas as service yards, external equipment areas and the like. Such structures or devices shall have written consent of the Association prior to construction.

25. No parking is permitted within five (5') feet of any property line bordering on another building or pedestrian right-of-way. Adjoining unit Owners may share a common entrance and parking area provided that such area shall not exceed one hundred (100') feet in any direction with the interim landscaping.

26. The use of firearms on the Condominium property is prohibited except for the necessary use of firearms by peace officers in the performance of their duties.

27. These rules may be revised from time to time by the Association.

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