

provisions, Section 133 of the Act shall control upon any taking by eminent domain.

Section 5. Priority of Mortgagee Interests. Nothing contained in the Condominium Documents shall be construed to give a Condominium Unit Owner, or any other party, priority over any rights of first mortgagees of Condominium Units pursuant to their mortgages in the case of a distribution to Condominium Unit Owners of insurance proceeds or condemnation awards for losses to or a taking of Condominium Units and/or Common Elements.

ARTICLE VI

RESTRICTIONS

All of the Units in the Condominium shall be held, used and enjoyed subject to the following limitations and restrictions:

Section 1. Residential Use. No Unit in the Condominium shall be used for other than single-family residence purposes and the Common Elements shall be used only for purposes consistent with single-family residential use in accordance with the ordinances of the City of Flat Rock. No building of any kind shall be erected except private residences and structures ancillary thereto. Only one residence may be erected within any Unit.

Section 2. Leasing and Rental.

(a) **Right to Lease.** A Co-owner may lease his Unit for the same purposes set forth in Section 1 of this Article VI; provided that written disclosure of such lease transaction is submitted to the Board of Directors of the Association in the manner specified in subsection (b) below. With the exception of a lender in possession of a Unit following default of a first mortgage, foreclosure or deed or other arrangement in lieu of foreclosure, no Co-owner shall lease less than an entire Unit in the Condominium and no tenant shall be permitted to occupy except under a lease the initial term of which is at least 6 months unless specifically approved in writing by the Association. The terms of all leases, occupancy agreements and occupancy arrangements shall incorporate, or be deemed to incorporate, all of the provisions of the Condominium Documents. The Developer may lease any number of Units in the Condominium in its discretion without approval by the Association.

(b) **Leasing Procedures.** The leasing of Units in the Project shall conform to the following provisions:

(1) A Co-owner, including the Developer, desiring to rent or lease a Unit, shall disclose that fact in writing to the Association at least 10 days before presenting a lease form to a potential lessee of the Unit and at the same time, shall supply the Association with a copy of the exact lease form for its review for its compliance with the Condominium Documents. If Developer desires to rent Units before the Transitional Control Date, it shall notify either the Advisory

Committee or each Co-owner in writing.

(2) Tenants or nonco-owner occupants shall comply with all of the conditions of the Condominium Documents of the Condominium Project and all leases and rental agreements shall so state.

(3) If the Association determines that the tenant or nonco-owner occupant has failed to comply with the conditions of the Condominium Documents, the Association shall take the following action:

(i) The Association shall notify the Co-owner by certified mail advising of the alleged violation by the tenant.

(ii) The Co-owner shall have 15 days after receipt of such notice to investigate and correct the alleged breach by the tenant or advise the Association that a violation has not occurred.

(iii) If after 15 days the Association believes that the alleged breach is not cured or may be repeated, it may institute on its behalf or derivatively by the Co-owners on behalf of the Association, if it is under the control of the Developer, an action for eviction against the tenant or nonco-owner occupant and simultaneously for money damages in the same action against the Co-owner and tenant or nonco-owner occupant for breach of the conditions of the Condominium Documents. The relief provided for in this subparagraph may be by summary proceeding. The Association may hold both the tenant and the Co-owner liable for any damages to the Common Elements caused by the Co-owner or tenant in connection with the Unit or Condominium Project and for actual legal fees incurred by the Association in connection with legal proceedings hereunder.

(4) When a Co-owner is in arrears to the Association for assessments, the Association may give written notice of the arrearage to a tenant occupying a Co-owner's Unit under a lease or rental agreement and the tenant, after receiving the notice, shall deduct from rental payments due the Co-owner the arrearage and future assessments as they fall due and pay them to the Association. The deductions shall not constitute a breach of the rental agreement or lease by the tenant. The form of lease used by any Co-owner shall explicitly contain the foregoing provisions.

Section 3. Architectural Control.

(a) No building, structure or other improvement shall be constructed within a Condominium Unit or elsewhere within the condominium Project, nor shall any exterior modification be made to any existing buildings, structure or improvement, unless plans and specifications therefor, containing such detail as the Developer may reasonably request, have first been approved in writing by the Developer. Construction of any building or other improvements must also receive any necessary approvals from the local public authority. Developer shall have the

right to refuse to approve any such construction plans or specifications, or grading or landscaping plans, which are not suitable or desirable in its opinion for aesthetic or other reasons; and in passing upon such plans and specifications it shall have the right to take into consideration the suitability of the proposed structure, improvement, modification or landscaping, the site upon which it is proposed to be constructed and the degree of harmony thereof with the Condominium as a whole. The purpose of this Section is to assure the continued maintenance of the Condominium as a beautiful and harmonious residential development, and shall be binding upon both the Association and upon all Co-owners. Developer's rights under this Article VI, Section 3 may, in Developer's discretion, be assigned to the Association or other successor to Developer. Developer may construct any improvements or effect any landscaping upon the Condominium Premises that it may, in its sole discretion, elect to make without the necessity of prior consent from the Association or any other person or entity, subject only to the express limitations contained in the Condominium Documents.

(b) All dwellings shall be constructed in accordance with a certain Planned Unit Development Agreement (as the same may be amended from time to time) with the City of Flat Rock. The Developer shall have the right in its sole discretion to amend the Planned Unit Development Agreement without the consent of any Co-owner in Preserves at Bradbury Park Condominium.

(c) No above-ground swimming pools shall be erected or maintained on any Unit.

(d) No fence or wall of any kind shall be erected or maintained on any Unit, except fences which shall be wrought iron or aluminum equivalent as approved by the Developer. All permitted fences shall be no larger than 4 feet in height and shall be black or brown in color. The Developer shall have the right to approve the size, design and location of all fences and shall have the right to standardize the design of any permitted fences.

* (e) The size, color, style, location and other attributes of the mailbox for any residence shall be as specified by the Developer, in order to ensure consistency and uniformity within the Condominium. Developer may elect to supply mailboxes to the Owner which shall be paid for by the Owner. At the initial closing of any Unit, each Co-owner shall pay to the Developer or the Association 150% of the estimated cost of the mail box for the Co-owner's Unit to be held for the installation of such mail box.

(f) Upon the completion of a residence on each of the Units, the owner thereof (and the word "owner", as used in this connection, is intended to mean the party who purchases a residence from the builder thereof, and each subsequent purchaser thereof) shall cause all portions of the Unit to be finish-graded, seeded or sodded, and suitably landscaped on or before sixty (60) days after the completion of the dwelling, or by the next July 1 if the residence is completed between September 1 and May 1. All lawns and landscaping in the Condominium (including any berm and landscaping areas) shall be of an aesthetically pleasing nature and shall be continuously and properly well maintained at all times. No statues may be placed in the front yard of any dwelling. It is the purpose of this Article VI, Section 3(f) to cause the Condominium to develop into a beautiful,

harmonious, private residential area. Prior to the issuance of a certificate of occupancy for any residence (or by the next July 1 if a residence is completed between September 1 and May 1 of any year), the builder shall install the required number of trees as per the approved landscape plan on file with the City of Flat Rock. The owner of each Unit shall maintain the trees required by said landscape plan and shall be responsible for the replacement of any trees which die.

(b) Should any Owner fail to maintain the lawns, trees, berms, shrubbery, or other landscaping on his Unit in good order and repair in accordance with "good property management", then Developer or the Association may serve written notice upon the Owner setting forth the manner in which the Owner has so failed. In the event that the deficiency of maintenance, repair, or replacement stated in such notice is not cured within fifteen (15) days following the date of such notice, Developer or the Association, as the case may be, shall be authorized and permitted to enter the Unit for the purpose of curing the deficiency. If, following the cure of the deficiency, the deficiency reoccurs and persists, Developer or the Association, as the case may be, shall be authorized and permitted to enter the Unit as often as is reasonably required for the purpose of continually maintaining in good order and repair the lawns, trees, berms, shrubbery, and other landscaping on the Unit, which right of Developer or Association shall continue until such time as Developer or the Association reasonably shall determine that the Owner of the deficient Unit is willing and able to reassume the maintenance responsibility.

The cost incurred by Developer or the Association for such maintenance, repair, and replacement, plus an administrative fee equal to twenty percent (20%) of such cost, shall be due and payable by the Owner of such Unit to Developer or the Association, as the case may be, within ten (10) days following such date as Developer or the Association sends the Owner a bill therefor. If the amount billed is not paid within such ten (10) day period, the unpaid amount shall be a charge on the Unit, shall be a continuing lien upon the Unit, and shall be treated as an additional assessment against the Unit subject to treatment in accordance with the provisions of these Bylaws controlling and affecting such assessments. Upon the completion of a residence on any of the Units the owner thereof, (and the word "owner", as used in this connection, is intended to mean the party who purchase a residence from the builder thereof, and each subsequent purchaser), shall cause the Unit owned by him to be finish-graded and seeded or sodded and suitably landscaped as soon after the completion of construction as weather permits. All landscaping and lawns shall be well-maintained at all times.

(g) Standard for Developer's Approvals; Exculpation from Liability. In reviewing and passing upon the plans, drawings, specifications, submissions and other matters to be approved or waived by the Developer under this Section, the Developer intends to ensure that the dwellings and other features embodied or reflected therein meet the requirements set forth in this Section; however, the Developer reserves the right to waive or modify such restrictions or requirements pursuant to paragraph (h) of this Section. In addition to ensuring that all dwellings comply with the requirements and restrictions of this Section 3, the Developer (or the Association, to the extent approval powers are assigned to it by the Developer) shall have the right to base its approval or disapproval of any plans, designs, specifications, submissions or other matters on such other factors,

including completely aesthetic considerations, as the Developer (or the Association) in its sole discretion may determine appropriate or pertinent. The Developer currently intends to take into account the preservation of trees and of the natural setting of the Condominium in passing upon plans, designs, drawings, specifications and other submissions. Except as otherwise expressly provided herein, the Developer or the Association, as the case may be, shall be deemed to have the broadest discretion in determining what dwellings or other structures will enhance the aesthetic beauty and desirability of the Condominium, or otherwise further or be consistent with the purposes for any restrictions. In no event shall either the Developer (or the agents, officers, employees or consultants thereof), or the Association have any liability whatsoever to anyone for any act or omission contemplated herein, including without limitation the approval or disapproval of plans, drawings, specifications, elevations of the dwellings or other structures subject thereto, whether such alleged liability is based on negligence, tort, express or implied contract, fiduciary duty or otherwise. By way of example, neither the Developer nor member of the Association shall have liability to anyone for approval of plans, specifications, structures or the like which are not in conformity with the provisions of this Section 3 or any other provision contained in the Condominium Documents, or for disapproving plans, specifications, structures or the like which arguably are in conformity with the provisions hereof. In no event shall any party have the right to impose liability on, or otherwise contest judicially, the Developer or any other person for any decision of the Developer (or alleged failure of the Developer to make a decision) relative to the approval or disapproval of a structure or any aspect or other matter as to which the Developer reserves the right to approve or waive under this Master Deed. The approval of the Developer (or the Association, as the case may be) of a building, structure, improvement or other matter shall not be construed as a representative or warranty that the structure or matter is properly designed or that it is conformity with the ordinances or other requirements of the City of Flat Rock or any other governmental authority. Any obligation or duty to ascertain any such non-conformities, or to advise the Owner or any other person of the same (even if known), is hereby disclaimed.

(h) Developer's Right to Waive or Amend Restrictions. Notwithstanding anything herein to the contrary, the Developer reserves the right to approve any structure or activities otherwise prescribed or prohibited hereunder, or to waive any restriction or requirement provided for in this Section 3, if in the Developer's sole discretion such is appropriate in order to maintain the atmosphere, architectural harmony, appearance and value of the Condominium and the Units therein, or to relieve the Owner of a Unit or a contractor from any undue hardship or expense. In no event, however, shall the Developer be deemed to have waived or be estopped from asserting its right to require strict and full compliance with all the restrictions set forth herein, unless the Developer indicates its intent and agreement to do so in writing and, in the case of an approval of nonconforming structures, the requirements of paragraph (a) of this Section are met.

Section 4. **Pets.** No animals, including household pets, except 2 dogs or 2 cats or any combination of 2 such animals, shall be maintained by any Co-owner unless specifically approved in writing by the Association which consent, if given, shall be revocable at any time for infraction of the rules with respect to animals. No animal may be kept or bred for any commercial purpose and shall have such care and restraint so as not to be obnoxious or offensive on account of noise, odor

or unsanitary conditions. No animal may be permitted to run loose at any time upon the Common Elements and any animal shall at all times be leashed and attended by some responsible person while on the Common Elements, Limited or General. No savage or dangerous animal shall be kept and any Co-owner who causes any animal to be brought or kept upon the premises of the Condominium shall indemnify and hold harmless the Association for any loss, damage or liability which the Association may sustain as the result of the presence of such animal on the premises, whether or not the Association has given its permission therefor. No dog kennels or dog runs shall be allowed.

Section 6. Aesthetics. The Common Elements shall not be used for storage of supplies, materials, personal property or trash or refuse of any kind, except as provided in duly adopted rules and regulations of the Association. No exterior radio, television aerial, antenna, satellite dish or other reception or transmission device shall be constructed, altered or maintained on any Unit without the prior written consent of Developer, which the Developer may withhold in its sole discretion. Satellite dishes shall be 18 inches in diameter or less and attached to the sides or rear of the dwelling.

Section 6. Vehicles. No house trailers, commercial vehicles, boat trailers, boats, camping vehicles, camping trailers, motorcycles, all terrain vehicles, snowmobiles, snowmobile trailers or vehicles, other than automobiles or vehicles used primarily for general personal transportation use, may be parked or stored upon the premises of the Condominium, unless in garages or approved outbuildings. Passenger vehicles shall be parked in garages to the maximum extent possible. Garage doors shall be kept closed when not in use. No inoperable vehicles of any type may be brought or stored upon the Condominium Premises either temporarily or permanently. Commercial vehicles and trucks shall not be parked in or about the Condominium (except as above provided) unless while making deliveries or pickups in the normal course of business.

Section 7. Advertising. No signs or other advertising devices of any kind shall be displayed which are visible from the exterior of a Unit or on the Common Elements, including "For Sale" signs, without written permission from the Association and, during the Development and Sales Period, from the Developer.

Section 8. Rules and Regulations. It is intended that the Board of Directors of the Association may make rules and regulations from time to time to reflect the needs and desires of the majority of the Co-owners in the Condominium. Reasonable regulations consistent with the Act, the Master Deed and these Bylaws concerning the use of the Common Elements may be made and amended from time to time by any Board of Directors of the Association, including the first Board of Directors (or its successors) prior to the Transitional Control Date. Copies of all such rules, regulations and amendments thereto shall be furnished to all Co-owners. Any such regulation or amendment may be revoked at any time by the affirmative vote of more than 50% of the Co-owners in number and value, except that the Co-owners may not revoke any regulation or amendment prior to the First Annual Meeting of the entire Association.

Section 9. Common Element Maintenance. Sidewalks, if any, yards, landscaped areas, driveways and roads shall not be obstructed nor shall they be used for purposes other than for which

they are reasonably and obviously intended. No bicycles, vehicles, chairs or other obstructions may be left unattended on or about the Common Elements.

Section 10. Co-owner Maintenance. Each Co-owner shall maintain his Unit for which he has maintenance responsibility in a safe, clean and sanitary condition. Each Co-owner shall also use due care to avoid damaging any of the Common Elements including, but not limited to, the telephone, water, gas, plumbing, electrical or other utility conduits and systems and any other elements in any Unit which are appurtenant to or which may affect any other Unit. Each Co-owner shall be responsible for damages or costs to the Association resulting from negligent damage to or misuse of any of the Common Elements by him, or his family, guests, agents or invitees, unless such damages or costs are covered by insurance carried by the Association (in which case there shall be no such responsibility, unless reimbursement to the Association is excluded by virtue of a deductible provision (in which case the responsible Co-owner shall bear the expense to the extent of the deductible amount). Any costs or damages to the Association may be assessed to and collected from the responsible Co-owner in the manner provided in Article II hereof.

Section 11. Reserved Rights of Developer.

(a) **Developer's Rights In Furtherance of Development and Sales.** None of the restrictions contained in this Article VI shall apply to the commercial activities or signs or billboards, if any, of the Developer during the Development and Sales Period or of the Association in furtherance of its powers and purposes set forth herein and in the Articles of Incorporation, as the same may be amended from time to time. Notwithstanding anything to the contrary elsewhere herein contained, Developer shall have the right to maintain a sales office, a business office, a construction office, model units, storage areas and reasonable parking incident to the foregoing and such access to, from and over the Project as may be reasonable to enable development and sale of the entire Project by Developer, and may continue to do so during the entire Development and Sales Period. Developer shall restore the areas so utilized to habitable status upon termination of use.

(b) **Enforcement of Bylaws.** The Developer shall have the right to enforce these Bylaws throughout the Development and Sales Period notwithstanding that it may no longer own a Unit in the Condominium which right of enforcement may include (without limitation) an action to restrain the Association or any Co-owner from any activity prohibited by these Bylaws.

(c) **Prior approval by Developer.** During the Development and Sales Period, no buildings, drives, walks or other structures or improvements shall be commenced, erected, maintained, nor shall any addition to, or change or alteration to any structure be made (including in color or design), except interior alterations which do not affect structural elements of any Unit, nor shall any hedges, trees or substantial plantings or landscaping modifications be made, until plans and specifications, acceptable to the Developer, showing the nature, kind, shape, height materials, color scheme, location and approximate cost of such structure or improvements and the grading or landscaping plan of the area to be affected shall have been submitted to and approved in writing by Developer, its successors or assigns, a copy of said plans and specifications, as finally approved,

lodged permanently with the Developer. The Developer shall have the right to refuse to approve any such plan or specifications, or grading or landscaping plans which are not suitable or desirable in its opinion for aesthetic or other reasons; and in passing upon such plans, specifications, grading or landscaping, it shall have the right to take into consideration the suitability of the proposed structure, improvement or modification, the site upon which it is proposed to effect the same, and the degree of harmony thereof with the Condominium as a whole. The purpose of this Section is to assure the continued maintenance of the Condominium as a beautiful and harmonious residential development, and shall be binding upon both the Association and upon all Co-owners.

ARTICLE VII

MORTGAGES

Section 1. Notice to Association. Any Co-owner who mortgages his Unit shall notify the Association of the name and address of the mortgagee, and the Association shall maintain such information in a book entitled "Mortgages of Units". The Association may, at the written request of a mortgagee of any such Unit, report any unpaid assessments due from the Co-owner of such Unit. The Association shall give to the holder of any first mortgage covering any Unit in the Project written notification of any default in the performance of the obligations of the Co-owner of such Unit that is not cured within 60 days.

Section 2. Insurance. The Association shall notify each mortgagee appearing in said book of the name of each company insuring the Condominium against fire, perils covered by extended coverage, and vandalism and malicious mischief and the amounts of such coverage.

Section 3. Notification of Meetings. Upon request submitted to the Association, any institutional holder of a first mortgage lien on any Unit in the Condominium shall be entitled to receive written notification of every meeting of the members of the Association and to designate a representative to attend such meeting.

ARTICLE VIII

VOTING

Section 1. Vote. Except as limited in these Bylaws, each Co-owner shall be entitled to one vote for each Condominium Unit owned when voting by number and one vote, the value of which shall equal the total of the percentages allocated to the Unit owned by such Co-owner as set forth in Article V of the Master Deed, when voting by value. Voting shall be by value except in those instances when voting is specifically required to be both in value and in number.

Section 2. Eligibility to Vote. No Co-owner, other than the Developer, shall be entitled to