

CODE OF BY-LAWS OF
THE HARBOURS CONDOMINIUM ASSOCIATION, INC.
A NON-FOR-PROFIT CORPORATION

ARTICLE I

Identification and Applicability

Section 1.01. Identification and Adoption. These By-Laws are adopted simultaneously with the execution of a certain Declaration of The Harbours Horizontal Property Regime (hereinafter referred to as the "Declaration"), to which these By-Laws are attached and of which they are made a part. The Declaration is incorporated herein by reference and all of the covenants, conditions, rights, restrictions, and liabilities therein contained shall apply to and govern the interpretation of these By-Laws. The definitions and terms as defined and used in the Declaration shall have the same meanings in these By-Laws, and reference is hereby made to the definitions in Section 1 of the Declaration. The provisions of these By-Laws shall apply to the Property and to the administration and conduct of the affairs of the Association.

Section 1.02. Individual Application. All of the Owners, tenants, their guests and invitees, or any other person who might now or hereafter use or occupy a Unit or any part of the Property shall be subject to the rules, restrictions, terms and conditions set forth in the Declaration, these By-Laws, the Articles and the Act, as the same may be amended from time to time.

ARTICLE II

Meetings of Association

Section 2.01. Purpose of Meetings. At least annually and at such other times as may be necessary or appropriate, a meeting of the Co-Owners shall be held for the purpose of electing the Board of Directors, approving the annual budget, providing for the collection of Common Expenses, and for such other purposes as may be required by the Declaration, these By-Laws, or the Act.

Section 2.02. Annual Meetings. The first annual meeting shall not be held until the time of turnover of control of the Regime by Declarant or at such earlier time or times as may be determined by the Declarant. All subsequent annual meetings shall be held on any date selected by the Board of Directors. At each annual meeting, the Co-Owners shall elect the Board of Directors of the Association in accordance with the provisions of these By-Laws and transact such other business as may properly come before the meeting.

Section 2.03. Special Meetings. After the turnover of control by Declarant, a special meeting of the members of the Association may be called by resolution of the Board of Directors or upon a written petition of the Co-Owners who have not less than ten percent (10%) of the Percentage Vote. The resolution or petition shall be presented to the President or Secretary of the Association and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

Section 2.04. Notice and Place of Meetings. All meetings of the members of the Association shall be held at such location within the State of Indiana as may be designated by the Board of Directors. Written notice stating the date, time, place of any meeting, and in the case of a special meeting the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Association to each Co-Owner and, if applicable, to any Mortgagee of which the Association has been notified as required in Article VIII, not less than fourteen (14) days prior to the date of such meeting. If at any meeting an amendment to the Declaration or these By-Laws is to be considered, the notice of such meeting shall describe the nature of such proposed amendment. The notice shall be mailed by first-class U.S. Mail, postage prepaid, or delivered to the Co-Owners at their respective addresses as the same shall appear upon the records of the Association, and by U.S. Certified Mail, Return Receipt Requested to the Mortgagees at their respective addresses as they shall appear on the records of the Association, by such means as provided in Section 31 of the Declaration. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

Section 2.05. Voting.

(a) Number of Votes. Each Owner shall be entitled to cast its Percentage Vote on each matter coming before the meeting. The total number of votes for or against any matter shall then be divided by the number of Unites then in the Regime to determine the respective proportions of Co-Owners supporting or opposing such matter.

(b) Multiple Owners. When the Owner of a Unit constitutes more than one person or entity, or is a partnership, there shall be only one voting representative entitled to cast the Percentage Vote allocable to that Unit. At the time of acquisition of title to a Unit by a multiple Owner or a partnership, those persons constituting such Owner or the partners shall file with the Secretary of the Association an irrevocable proxy appointing one of such persons or partners as the voting representatives for such Unit, which shall remain in effect until such appointed representative relinquishes such appointment in writing, becomes incompetent, dies, or such appointment is otherwise rescinded by order of a court of competent jurisdiction. Such appointed voting representative may grant a proxy to another to vote in his place at a particular meeting or meetings pursuant to paragraph (d) of this Section 2.05, which shall constitute relinquishment of his right to act as voting representative for the Unit as such meeting or meetings.

(c) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustees may cast the vote on behalf of the trust, and the agent or other representative of the corporation duly empowered by the

board of directors of such corporation shall cast the vote to which the corporation is entitled.

(d) Proxy. An Owner may vote either in person or by his duly authorized and designated attorney-in-fact. Where voting is by proxy, the Owner shall duly designate his attorney-in-fact in writing, delivered to an officer of the Association prior to the commencement of the meeting; provided, however, no written proxy from any owner shall be required for Declarant to vote for any owner by proxy pursuant to Section 8 of the Declaration.

(e) Quorum. Except where otherwise expressly provided in the Declaration, these By-Laws, or the Act, the presence of Owners or their duly authorized representatives holding ten percent (10%) of the total Percentage Vote shall constitute a quorum at all meetings. The terms "majority of Owners" and "majority of the vote", as used in these By-Laws, shall mean, unless otherwise expressly indicated, not less than fifty-one (51%) of the total Percentage Vote as determined by the applicable provisions set forth in the Declaration, and shall not mean a majority of the persons or votes present or represented at such meeting.

(f) Conduct of Annual Meeting. The Chairman of the meeting shall be the President of the Association. He shall call the meeting to order at the duly designated time, and business will be conducted in the following order:

(1) Reading of Minutes. The Secretary or an Assistant Secretary shall read the minutes of the last annual meeting and the minutes of any special meeting held subsequent thereto.

(2) Treasurer's Report. The Treasurer or an Assistant Treasurer shall report to the Co-Owners concerning the financial condition of the Association and answer relevant questions of the Owners concerning the Common Expenses and financial report for the prior year and the proposed budget for the current year.

(3) Budget. The proposed budget for the current calendar year shall be presented to the Co-Owners for approval or amendment.

(4) Election of Board of Directors. Nominations for the Board of Directors may be made by an Owner from those persons eligible to serve. Such nominations must be in writing and presented to the Secretary of the Association at least ten (10) days prior to the annual meeting. Voting for Board of Directors will be by paper ballot. The ballot shall contain the name of each person nominated to serve as a Board member. Each Owner may cast his Percentage Vote for each of as many nominees as are to be elected; however, he shall not be entitled to accumulate his votes. Those persons receiving the highest number of votes shall be elected.

(5) Other Business. Other business may be brought before the meeting only upon a written request submitted to the Secretary of the Association at least ten (10) days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed by a majority of the vote.

(6) Committee Reports. Reports of committees designated to supervise and advise on the respective segments of maintenance and operations assigned by the Board of Directors shall be presented.

(7) Adjournment. Upon completion of all business before the Association, the President, upon the motion of any Owner, may adjourn the meeting; provided, however, that no annual meeting shall be adjourned until a budget is approved by the Co-Owners for the upcoming year.

(g) Action of Consent. Any action required or permitted to be taken at any Owner's meeting may be taken without a meeting if, prior to such action, a written consent to such action is signed by all the Owners and is filed with the minutes of the Association proceedings.

Section 2.06. Control During Development. Notwithstanding any other provision of the Declaration, the Act, the Articles, or these By-Laws, from and after the date of the Declaration until the date when Declarant turns over control of the Regime to the Co-Owners, as determined by Declarant within the limitations set forth in Section 8 of the Declaration, the Regime shall be governed by the initial Board of Directors appointed by Declarant. Said initial Board of Directors shall exclusively hold all rights and powers which a Board of Directors or the Association would have under the Declaration, the Act, the Articles, or these By-Laws, except as specifically limited in this Section 2.06. Said initial Board of Directors may appoint from time to time from among the Co-Owners committees to advise and assist it in the performance of its functions. The rights and powers of said initial Board of Directors shall be limited as follows:

(a) Said initial Board shall have no power to reallocate Percentage Interests or Percentage Votes in a manner not consistent with the Declaration.

(b) Said initial Board, as such, shall have no power to determine on behalf of the Co-Owners whether a complete destruction of the Buildings and other Property within the Regime has occurred, and the Co-Owners shall be entitled to vote on such matter in accordance with Section 19 of the Declaration; provided, however, that this shall not prohibit Declarant from voting on such matter according to the Percentage Vote attaching the Units owned by Declarant.

(c) Said initial Board of Directors shall not take any action requiring the vote or consent of any Mortgagee unless the vote or consent of such Mortgagee is obtained.

Declarant shall have the right to waive, on behalf of the Association, the annual meetings and annual accountings provided for in this Article II and in the Declaration, so long as Declarant retains control of the Association. At the time of turnover of control by Declarant, the first annual meeting of the Association will be called, if it has not already been held, at which time the rights and powers of the initial Board of Directors shall terminate and the Regime shall thereafter be governed in accordance with the provisions of the Declaration, the Act, the Articles, and these By-Laws other than this Section 2.06.

ARTICLE III

Board of Directors

Section 3.01. Board of Directors. The affairs of the Association shall be governed and managed by the Board of Directors (herein sometimes collectively called "Board" and individually called "Directors"). The initial Board of Directors shall be composed of three (3) persons appointed by Declarant. After the expiration of the term of the initial Board of Directors as provided in Section 2.06 herein above, the constituency of such Board may be increased to, but shall not exceed, nine (9) persons. The number of Directors shall be increased in accordance with this Section 3.01 only if the increase is properly brought before the Association at an annual meeting or special meeting called for such purpose and approved by a majority of the Percentage Vote present at such meeting. No person shall be eligible to serve as a Director unless he is an Owner or is an attorney, agent, or employee of Declarant.

Section 3.02. Additional Qualifications. Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then the person entitled to cast the Percentage Vote on behalf of such multiple Owner shall be eligible to serve on the Board of Directors.

Section 3.03. Term of Office and Vacancy. One-third (1/3) of the Board of Directors shall be elected at each annual meeting of the Association subject to the limitations set forth in Section 2.06 above, for a term of three (3) years each. Any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining Directors or by vote of the Co-Owners if a Director is removed in accordance with Section 3.04 of this Article III.

Section 3.04. Removal of Directors. After the tenure of the initial Board of Directors has expired, a Director or Directors may be removed with or without cause by a majority of the vote present at a special meeting of the Co-Owners duly called and constituted. In such case, his successor shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director selected shall serve until the next annual meeting of the Co-Owners or until his successor is duly elected and qualified.

Section 3.05. Duties of the Board of Directors. The Board of Directors shall perform or cause to be performed, when and to the extent deemed necessary or appropriate in the Board's business judgment, the following:

- (a) Repair and replacement of the General Common Areas and Limited Areas;
- (b) Procuring of utilities, removal of garbage and waste, and snow removal from the Common Areas;
- (c) Landscaping, painting, decorating, and furnishing of the General Common Areas and Limited Areas, the exterior of the Buildings, garages and walls;
- (d) Surfacing, paving, and maintaining streets, parking areas, garages, and sidewalks, and the regulation of the use thereof;
- (e) Assessment and collection from the Owners of the Owner's Percentage Interest of the Common Expenses;
- (f) Preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of annual meeting is mailed or delivered;
- (g) Preparing and delivering annually to the Co-Owners a full accounting of all receipts and expenses incurred during each year, which accounting shall be delivered to each Owner simultaneously with delivery of the annual budget;
- (h) Keeping a current, accurate, and detailed record of receipts and expenditures affecting the Property, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an Owner at any time during normal business hours; and
- (i) Procuring and maintaining in force all insurance coverage required by the Declaration to be maintained for the whole Regime as specified by Section 16 of the Declaration.

Section 3.06. Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonably necessary or appropriate to accomplish the performance of their duties. These powers include, but are not limited to, the power:

- (a) To employ a professional managing agent or real estate management company (either being hereinafter referred to as "Managing Agent") to assist the Board in performing its duties;
- (b) To purchase for the benefit of the Co-Owners such equipment, materials, labor, and services as may be necessary or desirable in the judgment of the Board of Directors;
- (c) To procure for the benefit of the Co-Owners fire and extended coverage insurance covering the Buildings and the Property to the full insurable value

thereof, to procure public liability and property damage insurance and Workmen's Compensation insurance, if necessary, and to procure all such other insurance as is required or permitted under the Declaration, for the benefit of the Co-Owners and the Association;

(d) To employ legal counsel, architects, contractors, accountants, and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Association;

(e) To include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom;

(f) To open and maintain a bank account or accounts in the name of the Association;

(g) To adopt, revise, amend, and alter from time to time reasonable rules and regulations with respect to use, occupancy, operation, and enjoyment of the Property; provided that the Board shall give written notice to the Co-Owners of such rules and any revision, amendment, or alteration thereof; and

(h) To appoint Committees to supervise and interpret the policies and regulations adopted by the Board.

Section 3.07. Limitations on Board Action. After the tenure of the initial Board of Directors, the authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than Five Thousand Dollars (\$5,000.00), unless the prior approval of a majority of Owners is obtained, except in the following cases:

(a) Supervision and management of the replacement or restoration of any portion of the Common Areas damaged or destroyed by fire or other casualty, where the cost thereof is payable out of insurance proceeds actually received; and

(b) Proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Co-Owners at the annual meeting.

Section 3.08. Compensation. No Director shall receive any compensation for his services as such except to such extent as may be expressly authorized by a majority of the Owners.

Section 3.09. Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of Directors. The Secretary shall give notice of regular meetings of the Board to each Director personally or by United States mail at least five (5) days prior to the date of such meetings. At any time after the tenure of the initial Board of Directors has expired, a special meeting of the Board may be called by the President or any two members of the Board. The person or persons calling such meeting shall give written notice thereof to the Secretary, who shall either personally or by mail and at least three (3) days prior to the date of such special meeting, give notice to the Board members. The notice of the meeting shall

contain a statement of the purpose for which the meeting is called. Such meeting shall be held at such place as shall be designated in the notice.

Section 3.10. Waiver of Notice. Before any meeting of the Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Director at a meeting shall, as to such Director, constitute a waiver of notice of the time, place, and purpose thereof. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 3.11. Action by Consent. Any action required or permitted to be taken at any Board meeting may be taken without a meeting if, prior to such action, a written consent to such action is signed by all of the Directors and is filed with the minutes of the Board proceedings.

ARTICLE IV

Officers

Section 4.01. Officers of the Association. The principal officers of the Association shall be the President, Vice-President, Secretary and Treasurer, all of whom shall be elected by the Board. The Directors may appoint an Assistant Treasurer and an Assistant Secretary and such other officers as in their judgment may be necessary. Any two or more offices may be held by the same person, except that the duties of the President and Secretary shall not be performed by the same person.

Section 4.02. Election of Officers. The officers of the Association shall be elected annually by the Board at the first meeting of the Board following each election of Directors. Upon recommendation of a majority of all members of the Board and upon an affirmation vote of a majority of Owners present at a meeting, any officer may be removed either with or without cause and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 4.03. Vacancies. Whenever any vacancy occurs in any Association office for any reason, such vacancy may be filled by the Board of any meeting thereof, and any officer so elected shall hold office until expiration of the term of the officer causing the vacancy, and until a successor is duly elected and qualified.

Section 4.04. Compensation. No officer shall receive any compensation or his services as such, except as fixed by duly recorded Board action.

Section 4.05. The President. The President shall be elected from among the Directors and shall be the chief executive officer of the Association. After the tenure of the initial Board of Directors, he shall preside at all meetings of the Association and of the Board, shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of an association or a stock corporation organized under the laws of Indiana, including, but not limited to, the power to appoint committees from among the Co-Owners as he may deem necessary to assist in the affairs of the association and to perform such other duties as the Board may from time to time prescribe.

Section 4.06. The Vice-President. The Vice-President shall be elected from among the Directors and shall perform all duties incumbent upon the President during the absence or disability of the President. The Vice-President shall also perform such other duties as these By-Laws may prescribe or as shall, from time to time, be imposed upon him by the Board or by the President.

Section 4.07. Secretary. The Secretary shall be elected from among the Owners or Directors. The Secretary shall attend all meetings of the Association and of the Board and shall keep or cause to be kept a true and complete record of proceedings of such meetings, shall perform all other duties incident to the office of the Secretary, and such other duties as from time to time may be prescribed by the Board. If required, the Secretary shall attend the execution by the Association of deeds, leases, agreements and other official documents. The Secretary shall specifically see that all notices of the Association or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-Laws.

Section 4.08. The Treasurer. The Treasurer shall be elected from among the Owners or Directors. The Treasurer shall maintain a correct and complete record of account showing accurately at all times the financial condition of the Association and such other duties incident to the office of Treasurer. He shall be legal custodian of all monies, notes, securities, and other valuables which may from time to time come into possession of the Association. He shall immediately deposit all funds of the Association coming into his hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account in the name and for the exclusive benefit of the Association.

Section 4.09. Assistant Officers. The Board of Directors may from time to time designate and elect from among the Owners an Assistant Secretary and Assistant Treasurer, who shall have such powers and duties as the Officers whom they are elected to assist shall delegate to them and such other powers and duties as these By-Laws or the Board of Directors may prescribe.

ARTICLE V

Additional Rights and Duties of Board

Section 5.01. Right of Entry. An Owner or occupant of a Unit shall be deemed to have granted the right of entry to his Unit to the Board, the Managing Agent, or any person authorized by the Board in case of any emergency, in order to remedy any circumstance threatening his Unit, the Building in which it is located, or any person, whether the Owner is present at the time or not. Any Owner shall permit persons authorized by the Board to perform any work, when required, to enter his Unit for the purpose of performing installations, alterations, or repairs to the mechanical or electrical facilities or equipment, or to make structural repairs, provided that requests for entry are made in advance and that such entry is at a time convenient to the Owner. In case of emergencies, such right of entry shall be immediate.

Section 5.02. Right of Board to Adopt Rules and Regulations. The Board may promulgate such reasonable rules and regulations regarding the appearance and operation of the Property as the Board may deem desirable, including but not limited to the use of the General Common Areas and Limited Areas. Such rules as are adopted may be repealed or amended by a vote of a majority of the

Areas based upon its good faith estimates of replacement costs and useful life of such Common Areas. After the turning over of control of the Regime to the Co-Owners, each Owner shall pay to the Association a Regular Assessment as set forth above. The total of all such Regular Assessments shall be applied to the payment of the regular Common Expenses provided for in the annual budget, including expenses for maintenance and repair of the Common Areas, necessary insurance costs, reserve funds for replacements and maintenance, costs of operation of the community activities and facilities of the Association, and for any other necessary or appropriate expenses for maintenance and operation of the Regime.

Section 6.04. Special Assessments. In addition to the Regular Assessments authorized above, the Association may levy such special assessments as may be necessary for the purpose of defraying, in whole or in part: (1) the cost of any construction, reconstruction, repair or replacement of a capital improvement, including fixtures and personal property related thereto, and (2) the expense of any other contingencies or events not provided for in the annual budget or the reserves and working capital of the Association; provided that no special assessments shall be levied without the assent of a majority of the Percentage Vote at a meeting duly called for this purpose. Each Owner of a Unit shall pay to the Association a special assessment based on his Percentage Interest times the total sum approved to meet the costs and expenses as heretofore provided (herein called the "Special Assessment"). The Association may, in connection with the levy of any Special Assessment, specify that the same shall be payable in installments and specify the due dates thereof.

Section 6.05. Adjustments. In the event that the approved budget and Regular Assessments plus the reserves and working capital of the Association prove insufficient to meet the Association's actual expenses in any year, such deficiencies may be corrected through one or more Special Assessments. In the event the approved and Regular Assessments exceed actual expenses in any year, such surplus shall be retained and used to offset expenses in the next year(s) or returned to the Co-Owners in proportion to their Percentage Interests, as the Board of Directors shall elect.

Section 6.06. Temporary Budget and Assessments. If for any reason an annual budget and the annual Assessments for any year have not been determined as of the beginning of such year, the budget and Assessments in effect during the preceding year shall continue in effect until such time as the annual budget and annual Assessments are determined in accordance with the Declaration and these By-Laws; provided, however, that said preceding budget and Assessments may be increased by up to fifteen percent (15%) as the Board of Directors may deem necessary in said temporary budget and Assessments.

Section 6.07. Reserve and Working Capital Funds. The Association shall be obligated to establish a reserve fund for the repair and replacement of those Common Areas that must be replaced periodically, based upon good faith estimates of the useful lives and replacement costs of such Common Areas made or obtained by the Association. The reserve fund shall be funded through the payments by the Owners of Common Expenses and not by an extraordinary or Special Assessment. Extraordinary expenditures not originally included in the annual budget that become necessary during the year shall be charged first against the reserve fund so established before any Special Assessment is made or levied therefor. In addition to the reserve fund, a working capital fund shall be established and maintained by the Association. At the closing of the initial sale of each Unit to an Owner, the Association shall be paid by the purchaser of such Unit an amount equal to two (2) month's

Board. The Board shall cause copies of all such rules and regulations, including any amendments or repeals thereof, to be delivered or mailed promptly to all Owners at least fifteen (15) days prior to the effective date thereof. Any rule or regulation promulgated by the Board shall be properly and consistently enforced by the Board.

ARTICLE VI

Procedures for Assessments

Section 6.01. Annual Accounting. Annually, after the close of each calendar year, the Board of Directors shall cause to be prepared and furnished to each Owner a financial statement showing all receipts and expenses received, incurred, and paid by the Association during the preceding calendar year.

Section 6.02. Proposed Annual Budget. Annually, on or before the date for notice of the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget for the ensuing calendar year estimating the total amount of the Common Expenses for the ensuing year, and furnish a copy of such proposed budget to each Owner prior to the annual meeting. The proposed annual budget shall be submitted to the Co-Owners at the annual meeting of the Association for adoption, and if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the ensuing calendar year. At the annual meeting of the Co-Owners, the proposed annual budget may be approved in whole or in part, or may be amended in whole or in part, by a majority of the vote present or represented at the meeting (provided a quorum is present); provided, however, that in no event shall the annual meeting of the Co-Owners be adjourned until an annual budget is approved at such meeting.

Section 6.03. Regular Assessments. The annual budget as adopted shall, based on the estimated cash requirement for the Common Expenses in the ensuing year as set forth in said budget, contain a proposed annual assessment against each Unit based on the Percentage Interest of each Unit times the total amount of said budget (herein called the "Regular Assessment"). The Regular Assessment against each Unit shall be paid in twelve (12) equal monthly installments, commencing on the first day of the month following adoption and continuing on the first day of each calendar month thereafter. Payment of the monthly installments of the Regular Assessment shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors; provided, however, that any Owner may elect to pay monthly Assessments in advance. The Regular Assessment for each year shall become a lien on each separate Unit as of the date of the adoption of the annual budget. At the closing of the initial sale of each Unit to an Owner, the Association shall be paid by the purchaser of such Unit an amount equal to the pro-rated amount for the month of closing plus an amount equal to two (2) month's installment of the Regular Assessment for Common Expenses for such Unit pursuant to Section 6.07 hereof. Prior to Declarant's turning over of control of the Regime to the Co-Owners, the Co-Owners shall bear the Common Expenses of the Regime through payment of an initial Assessment fixed from time to time by the initial Board of Directors as provided in Section 2.06. The Declarant shall be responsible for any deficits during the period in which it controls the Association in the event the Common Expenses for such period exceed the amount assessed against the Co-Owners other than Declarant, and Declarant shall also establish and maintain during such period a reserve fund for the periodic maintenance, replacement or repair of Common

installment of the Regular Assessment for Common Expenses for such Unit, which amount shall be retained by the Association as working capital, which amount shall be adjusted annually so as to always keep on deposit an amount at least equal to two (2) months of the Regular Assessment for Common Expenses for such Unit for said calendar year. Amounts paid or deposited into the working capital fund shall not relieve an Owner from this responsibility for the Regular Assessments due in accordance with this Article VI. All amounts held by the Association pursuant to this Section 6.07 shall be maintained in a federally-insured, interest-bearing account in a bank or savings and loan association doing business in Clark County, Indiana, and all interest thereon shall be added to and deemed a part of such fund. Upon the original sale of a Unit, and the deposit by the new Owner of two (2) months of Regular Assessments, the Association shall refund to the Declarant the amount that the Declarant has on deposit for such Unit.

Section 6.08. Status of Funds. All funds collected pursuant to this Article VI shall be held and expended by the Association solely for the purposes designated herein, and, except for any Special Assessments that may be levied hereunder against less than all the Owners, and except for such adjustments as may be required to reflect delinquent or prepaid assessments, shall be deemed to be held for the use, benefit, and account of all of the Owners for the payment of Common Expenses in accordance with the Owners' respective Percentage interests.

ARTICLE VII

Amendment to By-Laws

These By-Laws may be amended in the same manner and to the same extent as the Declaration.

ARTICLE VIII

Notices and Mortgagees

Section 8.01. Notice to Association. Any Owner who places a first mortgage lien upon his Unit or the Mortgagee thereof shall notify the Secretary of the Association and provide the name and address of the Mortgagee. A record of such Mortgagee and notice required to be given to the Mortgagee pursuant to the terms of the Declaration or these By-Laws shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record at the time provided. Unless notification of any such mortgages and the name and address of the Mortgagee are furnished to the Secretary, either by Owner or by the Mortgagee, no notice to any Mortgagee as may otherwise be required by the Declaration or these By-Laws shall be required, and no such Mortgagee shall be entitled to vote on any matter on which he otherwise may be entitled to vote by virtue of the Declaration or By-Laws or proxy granted to such Mortgagee in connection with the mortgage.

Section 8.02. Notice of Assessments. Upon ten (10) days' written notice to the Association and the payment of a reasonable fee, the Association shall deliver to any Owner, Mortgagee, prospective Mortgagee, title insurance company, purchaser or other prospective transferee of a Unit, a written statement setting forth the amount of all unpaid assessments, if any, with respect to the subject Unit, together with the amount of the current assessments for Common Expenses and the

date(s) such assessments become due and payable. Any such written statement shall be binding upon the Association in favor of any person relying thereon in good faith.

Section 8.03. Financing Statements. The Association, upon the request of any Mortgagee, shall provide to said Mortgagee the most recent financial statement prepared on behalf of the Association pursuant to Section 6.01 of these By-Laws.

Section 8.04. Notices to Mortgagees. The Association shall promptly provide to any Mortgagee of whom the Association has been provided notice under Section 8.01 of these By-Laws of any of the following:

- (a) Any condemnation or casualty loss that affects either a material portion of the Regime or the Unit securing its mortgage;
- (b) Any lapse or cancellation of any insurance policy or fidelity bond maintained by the Association; and
- (c) Any proposed action that requires the consent of a specified percentage of Mortgagees.

ARTICLE IX

Miscellaneous

Section 9.01. Corporate Seal. The Association shall have no corporate seal.

Section 9.02. Execution of Contracts and Other Documents. Unless otherwise ordered by the Board, all written contracts and other documents entered into by the Association shall be executed on the Association's behalf by the President or a Vice President, and, if required, attested by the Secretary or an Assistant Secretary.

Section 9.03. Fiscal Year. The Association's fiscal year shall begin on January 1 of each year and end on the immediately following December 31.

CERTIFICATION

The undersigned, being first duly sworn, hereby certifies that the within and foregoing Code of By-Laws of The Harbours Condominium Association, Inc. are true and correct.



Alan D. Feinsilver, Incorporator

EXHIBIT B

CODE OF BY-LAWS OF

THE HARBOURS CONDOMINIUM ASSOCIATION, INC.

A NON-FOR-PROFIT CORPORATION

ARTICLE I

Identification and Applicability

Section 1.01. Identification and Adoption. These By-Laws are adopted simultaneously with the execution of a certain Declaration of The Harbours Horizontal Property Regime (hereinafter referred to as the "Declaration"), to which these By-Laws are attached and of which they are made a part. The Declaration is incorporated herein by reference and all of the covenants, conditions, rights, restrictions, and liabilities therein contained shall apply to and govern the interpretation of these By-Laws. The definitions and terms as defined and used in the Declaration shall have the same meanings in these By-Laws, and reference is hereby made to the definitions in Section 1 of the Declaration. The provisions of these By-Laws shall apply to the Property and to the administration and conduct of the affairs of the Association.

Section 1.02. Individual Application. All of the Owners, tenants, their guests and invitees, or any other person who might now or hereafter use or occupy a Unit or any part of the Property shall be subject to the rules, restrictions, terms and conditions set forth in the Declaration, these By-Laws, the Articles and the Act, as the same may be amended from time to time.

ARTICLE II

Meetings of Association

Section 2.01. Purpose of Meetings. At least annually and at such other times as may be necessary or appropriate, a meeting of the Co-Owners shall be held for the purpose of electing the Board of Directors, approving the annual budget, providing for the collection of Common Expenses, and for such other purposes as may be required by the Declaration, these By-Laws, or the Act.

Section 2.02. Annual Meetings. The first annual meeting shall not be held until the time of turnover of control of the Regime by Declarant or at such earlier time or times as may be determined by the Declarant. All subsequent annual meetings shall be held on any date selected by the Board of Directors. At each annual meeting, the Co-Owners shall elect the Board of Directors of the

Association in accordance with the provisions of these By-Laws and transact such other business as may properly come before the meeting.

Section 2.03. Special Meetings. After the turnover of control by Declarant, a special meeting of the members of the Association may be called by resolution of the Board of Directors or upon a written petition of the Co-Owners who have not less than ten percent (10%) of the Percentage Vote. The resolution or petition shall be presented to the President or Secretary of the Association and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

Section 2.04. Notice and Place of Meetings. All meetings of the members of the Association shall be held at such location within the State of Indiana as may be designated by the Board of Directors. Written notice stating the date, time, place of any meeting, and in the case of a special meeting the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Association to each Co-Owner and, if applicable, to any Mortgagee of which the Association has been notified as required in Article VIII, not less than fourteen (14) days prior to the date of such meeting. If at any meeting an amendment to the Declaration or these By-Laws is to be considered, the notice of such meeting shall describe the nature of such proposed amendment. The notice shall be mailed by first-class U.S. Mail, postage prepaid, or delivered to the Co-Owners at their respective addresses as the same shall appear upon the records of the Association, and by U.S. Certified Mail, Return Receipt Requested to the Mortgagees at their respective addresses as they shall appear on the records of the Association, by such means as provided in Section 31 of the Declaration. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

Section 2.05. Voting.

(a) Number of Votes. Each Owner shall be entitled to cast its Percentage Vote on each matter coming before the meeting. The total number of votes for or against any matter shall then be divided by the number of Units then in the Regime to determine the respective proportions of Co-Owners supporting or opposing such matter.

(b) Multiple Owners. When the Owner of a Unit constitutes more than one person or entity, or is a partnership, there shall be only one voting representative entitled to cast the Percentage Vote allocable to that Unit. At the time of acquisition of title to a Unit by a multiple Owner or a partnership, those persons constituting such Owner or the partners shall file with the Secretary of the Association an irrevocable proxy appointing one of such persons or partners as the voting representatives for such Unit, which shall remain in effect until such appointed representative relinquishes such appointment in writing, becomes incompetent, dies, or such appointment is otherwise rescinded by order of a court of competent jurisdiction. Such appointed voting representative may grant a proxy to another to vote in his place at a particular meeting or meetings pursuant to paragraph (d) of this Section 2.05, which shall

constitute relinquishment of his right to act as voting representative for the Unit as such meeting or meetings.

(c) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustees may cast the vote on behalf of the trust, and the agent or other representative of the corporation duly empowered by the board of directors of such corporation shall cast the vote to which the corporation is entitled.

(d) Proxy. An Owner may vote either in person or by his duly authorized and designated attorney-in-fact. Where voting is by proxy, the Owner shall duly designate his attorney-in-fact in writing, delivered to an officer of the Association prior to the commencement of the meeting; provided, however, no written proxy from any owner shall be required for Declarant to vote for any owner by proxy pursuant to Section 8 of the Declaration.

(e) Quorum. Except where otherwise expressly provided in the Declaration, these By-Laws, or the Act, the presence of Owners or their duly authorized representatives holding ten percent (10%) of the total Percentage Vote shall constitute a quorum at all meetings. The terms "majority of Owners" and "majority of the vote", as used in these By-Laws, shall mean, unless otherwise expressly indicated, not less than fifty-one (51%) of the total Percentage Vote as determined by the applicable provisions set forth in the Declaration, and shall not mean a majority of the persons or votes present or represented at such meeting.

(f) Conduct of Annual Meeting. The Chairman of the meeting shall be the President of the Association. He shall call the meeting to order at the duly designated time, and business will be conducted in the following order:

(1) Reading of Minutes. The Secretary or an Assistant Secretary shall read the minutes of the last annual meeting and the minutes of any special meeting held subsequent thereto.

(2) Treasurer's Report. The Treasurer or an Assistant Treasurer shall report to the Co-Owners concerning the financial condition of the Association and answer relevant questions of the Owners concerning the Common Expenses and financial report for the prior year and the proposed budget for the current year.

(3) Budget. The proposed budget for the current calendar year shall be presented to the Co-Owners for approval or amendment.

(4) Election of Board of Directors. Nominations for the Board of Directors may be made by an Owner from those persons eligible to serve. Such nominations must be in writing and presented to the Secretary of the Association at least ten (10) days prior to the annual meeting. Voting for Board of Directors will be by paper ballot. The ballot shall contain the name of each person nominated to serve as a Board member. Each Owner may cast his Percentage Vote for each of as many nominees as are to be elected; however, he shall not be entitled to accumulate his votes. Those persons receiving the highest number of votes shall be elected.

(5) Other Business. Other business may be brought before the meeting only upon a written request submitted to the Secretary of the Association at least ten (10) days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed by a majority of the vote.

(6) Committee Reports. Reports of committees designated to supervise and advise on the respective segments of maintenance and operations assigned by the Board of Directors shall be presented.

(7) Adjournment. Upon completion of all business before the Association, the President, upon the motion of any Owner, may adjourn the meeting; provided, however, that no annual meeting shall be adjourned until a budget is approved by the Co-Owners for the upcoming year.

(g) Action of Consent. Any action required or permitted to be taken at any Owner's meeting may be taken without a meeting if, prior to such action, a written consent to such action is signed by all the Owners and is filed with the minutes of the Association proceedings.

Section 2.06. Control During Development. Notwithstanding any other provision of the Declaration, the Act, the Articles, or these By-Laws, from and after the date of the Declaration until the date when Declarant turns over control of the Regime to the Co-Owners, as determined by Declarant within the limitations set forth in Section 8 of the Declaration, the Regime shall be governed by the initial Board of Directors appointed by Declarant. Said initial Board of Directors shall exclusively hold all rights and powers which a Board of Directors or the Association would have under the Declaration, the Act, the Articles, or these By-Laws, except as specifically limited in this Section 2.06. Said initial Board of Directors may appoint from time to time from among the Co-Owners committees to advise and assist it in the performance of its functions. The rights and powers of said initial Board of Directors shall be limited as follows:

(a) Said initial Board shall have no power to reallocate Percentage Interests or Percentage Votes in a manner not consistent with the Declaration.

(b) Said initial Board, as such, shall have no power to determine on behalf of the Co-Owners whether a complete destruction of the Buildings and other Property within the Regime has occurred, and the Co-Owners shall be entitled to vote on such matter in accordance with Section 19 of the Declaration; provided, however, that this shall not prohibit Declarant from voting on such matter according to the Percentage Vote attaching the Units owned by Declarant.

(c) Said initial Board of Directors shall not take any action requiring the vote or consent of any Mortgagee unless the vote or consent of such Mortgagee is obtained.

Declarant shall have the right to waive, on behalf of the Association, the annual meetings and annual accountings provided for in this Article II and in the Declaration, so long as Declarant retains control of the Association. At the time of turnover of control by Declarant, the first annual meeting of the Association will be called, if it has not already been held, at which time the rights and powers of the initial Board of Directors shall terminate and the Regime shall thereafter be governed in accordance with the provisions of the Declaration, the Act, the Articles, and these By-Laws other than this Section 2.06.

ARTICLE III

Board of Directors

Section 3.01. Board of Directors. The affairs of the Association shall be governed and managed by the Board of Directors (herein sometimes collectively called "Board" and individually called "Directors"). The initial Board of Directors shall be composed of three (3) persons appointed by Declarant. After the expiration of the term of the initial Board of Directors as provided in Section 2.06 herein above, the constituency of such Board may be increased to, but shall not exceed, nine (9) persons. The number of Directors shall be increased in accordance with this Section 3.01 only if the increase is properly brought before the Association at an annual meeting or special meeting called for such purpose and approved by a majority of the Percentage Vote present at such meeting. No person shall be eligible to serve as a Director unless he is an Owner or is an attorney, agent, or employee of Declarant.

Section 3.02. Additional Qualifications. Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then the person entitled to cast the Percentage Vote on behalf of such multiple Owner shall be eligible to serve on the Board of Directors.

Section 3.03. Term of Office and Vacancy. One-third (1/3) of the Board of Directors shall be elected at each annual meeting of the Association subject to the limitations set forth in Section 2.06 above, for a term of three (3) years each. Any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining Directors or by vote of the Co-Owners if a Director is removed in accordance with Section 3.04 of this Article III.

Section 3.04. Removal of Directors. After the tenure of the initial Board of Directors has expired, a Director or Directors may be removed with or without cause by a majority of the vote present at a special meeting of the Co-Owners duly called and constituted. In such case, his successor shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director selected shall serve until the next annual meeting of the Co-Owners or until his successor is duly elected and qualified.

Section 3.05. Duties of the Board of Directors. The Board of Directors shall perform or cause to be performed, when and to the extent deemed necessary or appropriate in the Board's business judgment, the following:

- (a) Repair and replacement of the General Common Areas and Limited Areas;
- (b) Procuring of utilities, removal of garbage and waste, and snow removal from the Common Areas;
- (c) Landscaping, painting, decorating, and furnishing of the General Common Areas and Limited Areas, the exterior of the Buildings, garages and walls;
- (d) Surfacing, paving, and maintaining streets, parking areas, garages, and sidewalks, and the regulation of the use thereof;
- (e) Assessment and collection from the Owners of the Owner's Percentage Interest of the Common Expenses;
- (f) Preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of annual meeting is mailed or delivered;
- (g) Preparing and delivering annually to the Co-Owners a full accounting of all receipts and expenses incurred during each year, which accounting shall be delivered to each Owner simultaneously with delivery of the annual budget;
- (h) Keeping a current, accurate, and detailed record of receipts and expenditures affecting the Property, specifying and itemizing the Common Expenses;

all records and vouchers shall be available for examination by an Owner at any time during normal business hours; and

(i) Procuring and maintaining in force all insurance coverage required by the Declaration to be maintained for the whole Regime as specified by Section 16 of the Declaration.

Section 3.06. Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonably necessary or appropriate to accomplish the performance of their duties. These powers include, but are not limited to, the power:

(a) To employ a professional managing agent or real estate management company (either being hereinafter referred to as "Managing Agent") to assist the Board in performing its duties;

(b) To purchase for the benefit of the Co-Owners such equipment, materials, labor, and services as may be necessary or desirable in the judgment of the Board of Directors;

(c) To procure for the benefit of the Co-Owners fire and extended coverage insurance covering the Buildings and the Property to the full insurable value thereof, to procure public liability and property damage insurance and Workmen's Compensation insurance, if necessary, and to procure all such other insurance as is required or permitted under the Declaration, for the benefit of the Co-Owners and the Association;

(d) To employ legal counsel, architects, contractors, accountants, and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Association;

(e) To include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom;

(f) To open and maintain a bank account or accounts in the name of the Association;

(g) To adopt, revise, amend, and alter from time to time reasonable rules and regulations with respect to use, occupancy, operation, and enjoyment of the Property; provided that the Board shall give written notice to the Co-Owners of such rules and any revision, amendment, or alteration thereof; and

(h) To appoint Committees to supervise and interpret the policies and regulations adopted by the Board.

Section 3.07. Limitations on Board Action. After the tenure of the initial Board of Directors, the authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than Five Thousand Dollars (\$5,000.00), unless the prior approval of a majority of Owners is obtained, except in the following cases:

(a) Supervision and management of the replacement or restoration of any portion of the Common Areas damaged or destroyed by fire or other casualty, where the cost thereof is payable out of insurance proceeds actually received; and

(b) Proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Co-Owners at the annual meeting.

Section 3.08. Compensation. No Director shall receive any compensation for his services as such except to such extent as may be expressly authorized by a majority of the Owners.

Section 3.09. Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of Directors. The Secretary shall give notice of regular meetings of the Board to each Director personally or by United States mail at least five (5) days prior to the date of such meetings. At any time after the tenure of the initial Board of Directors has expired, a special meeting of the Board may be called by the President or any two members of the Board. The person or persons calling such meeting shall give written notice thereof to the Secretary, who shall either personally or by mail and at least three (3) days prior to the date of such special meeting, give notice to the Board members. The notice of the meeting shall contain a statement of the purpose for which the meeting is called. Such meeting shall be held at such place as shall be designated in the notice.

Section 3.10. Waiver of Notice. Before any meeting of the Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Director at a meeting shall, as to such Director, constitute a waiver of notice of the time, place, and purpose thereof. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 3.11. Action by Consent. Any action required or permitted to be taken at any Board meeting may be taken without a meeting if, prior to such action, a written consent to such action is signed by all of the Directors and is filed with the minutes of the Board proceedings.

ARTICLE IV

Officers

Section 4.01. Officers of the Association. The principal officers of the Association shall be the President, Vice-President, Secretary and Treasurer, all of whom shall be elected by the Board. The Directors may appoint an Assistant Treasurer and an Assistant Secretary and such other officers as in their judgment may be necessary. Any two or more offices may be held by the same person, except that the duties of the President and Secretary shall not be performed by the same person.

Section 4.02. Election of Officers. The officers of the Association shall be elected annually by the Board at the first meeting of the Board following each election of Directors. Upon recommendation of a majority of all members of the Board and upon an affirmation vote of a majority of Owners present at a meeting, any officer may be removed either with or without cause and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 4.03. Vacancies. Whenever any vacancy occurs in any Association office for any reason, such vacancy may be filled by the Board at any meeting thereof, and any officer so elected shall hold office until expiration of the term of the officer causing the vacancy, and until a successor is duly elected and qualified.

Section 4.04. Compensation. No officer shall receive any compensation or his services as such, except as fixed by duly recorded Board action.

Section 4.05. The President. The President shall be elected from among the Directors and shall be the chief executive officer of the Association. After the tenure of the initial Board of Directors, he shall preside at all meetings of the Association and of the Board, shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of an association or a stock corporation organized under the laws of Indiana, including, but not limited to, the power to appoint committees from among the Co-Owners as he may deem necessary to assist in the affairs of the association and to perform such other duties as the Board may from time to time prescribe.

Section 4.06. The Vice-President. The Vice-President shall be elected from among the Directors and shall perform all duties incumbent upon the President during the absence or disability of the President. The Vice-President shall also perform such other duties as these By-Laws may prescribe or as shall, from time to time, be imposed upon him by the Board or by the President.

Section 4.07. Secretary. The Secretary shall be elected from among the Owners or Directors. The Secretary shall attend all meetings of the Association and of the Board and shall keep or cause to be kept a true and complete record of proceedings of such meetings, shall perform all other duties incident to the office of the Secretary, and such other duties as from time to time may

be prescribed by the Board. If required, the Secretary shall attend the execution by the Association of deeds, leases, agreements and other official documents. The Secretary shall specifically see that all notices of the Association or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-Laws.

Section 4.08. The Treasurer. The Treasurer shall be elected from among the Owners or Directors. The Treasurer shall maintain a correct and complete record of account showing accurately at all times the financial condition of the Association and such other duties incident to the office of Treasurer. He shall be legal custodian of all monies, notes, securities, and other valuables which may from time to time come into possession of the Association. He shall immediately deposit all funds of the Association coming into his hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account in the name and for the exclusive benefit of the Association.

Section 4.09. Assistant Officers. The Board of Directors may from time to time designate and elect from among the Owners an Assistant Secretary and Assistant Treasurer, who shall have such powers and duties as the Officers whom they are elected to assist shall delegate to them and such other powers and duties as these By-Laws or the Board of Directors may prescribe.

ARTICLE V

Additional Rights and Duties of Board

Section 5.01. Right of Entry. An Owner or occupant of a Unit shall be deemed to have granted the right of entry to his Unit to the Board, the Managing Agent, or any person authorized by the Board in case of any emergency, in order to remedy any circumstance threatening his Unit, the Building in which it is located, or any person, whether the Owner is present at the time or not. Any Owner shall permit persons authorized by the Board to perform any work, when required, to enter his Unit for the purpose of performing installations, alterations, or repairs to the mechanical or electrical facilities or equipment, or to make structural repairs, provided that requests for entry are made in advance and that such entry is at a time convenient to the Owner. In case of emergencies, such right of entry shall be immediate.

Section 5.02. Right of Board to Adopt Rules and Regulations. The Board may promulgate such reasonable rules and regulations regarding the appearance and operation of the Property as the Board may deem desirable, including but not limited to the use of the General Common Areas and Limited Areas. Such rules as are adopted may be repealed or amended by a vote of a majority of the Board. The Board shall cause copies of all such rules and regulations, including any amendments or repeals thereof, to be delivered or mailed promptly to all Owners at least fifteen (15) days prior to the effective date thereof. Any rule or regulation promulgated by the Board shall be properly and consistently enforced by the Board.

ARTICLE VI

Procedures for Assessments

Section 6.01. Annual Accounting. Annually, after the close of each calendar year, the Board of Directors shall cause to be prepared and furnished to each Owner a financial statement showing all receipts and expenses received, incurred, and paid by the Association during the preceding calendar year.

Section 6.02. Proposed Annual Budget. Annually, on or before the date for notice of the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget for the ensuing calendar year estimating the total amount of the Common Expenses for the ensuing year, and furnish a copy of such proposed budget to each Owner prior to the annual meeting. The proposed annual budget shall be submitted to the Co-Owners at the annual meeting of the Association for adoption, and if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the ensuing calendar year. At the annual meeting of the Co-Owners, the proposed annual budget may be approved in whole or in part, or may be amended in whole or in part, by a majority of the vote present or represented at the meeting (provided a quorum is present); provided, however, that in no event shall the annual meeting of the Co-Owners be adjourned until an annual budget is approved at such meeting.

Section 6.03. Regular Assessments. The annual budget as adopted shall, based on the estimated cash requirement for the Common Expenses in the ensuing year as set forth in said budget, contain a proposed annual assessment against each Unit based on the Percentage Interest of each Unit times the total amount of said budget (herein called the "Regular Assessment"). The Regular Assessment against each Unit shall be paid in twelve (12) equal monthly installments, commencing on the first day of the month following adoption and continuing on the first day of each calendar month thereafter. Payment of the monthly installments of the Regular Assessment shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors; provided, however, that any Owner may elect to pay monthly Assessments in advance. The Regular Assessment for each year shall become a lien on each separate Unit as of the date of the adoption of the annual budget. At the closing of the initial sale of each Unit to an Owner, the Association shall be paid by the purchaser of such Unit an amount equal to the pro-rated amount for the month of closing plus an amount equal to two (2) month's installment of the Regular Assessment for Common Expenses for such Unit pursuant to Section 6.07 hereof. Prior to Declarant's turning over of control of the Regime to the Co-Owners, the Co-Owners shall bear the Common Expenses of the Regime through payment of an initial Assessment fixed from time to time by the initial Board of Directors as provided in Section 2.06. The Declarant shall be responsible for any deficits during the period in which it controls the Association in the event the Common Expenses for such period exceed the amount assessed against the Co-Owners other than Declarant, and Declarant shall also establish and maintain during such period a reserve fund for the periodic maintenance, replacement or repair of Common Areas based upon its good faith estimates of replacement costs and useful life of such Common Areas. After the turning over of control of the Regime to the Co-Owners, each Owner shall pay to

the Association a Regular Assessment as set forth above. The total of all such Regular Assessments shall be applied to the payment of the regular Common Expenses provided for in the annual budget, including expenses for maintenance and repair of the Common Areas, necessary insurance costs, reserve funds for replacements and maintenance, costs of operation of the community activities and facilities of the Association, and for any other necessary or appropriate expenses for maintenance and operation of the Regime.

Section 6.04. Special Assessments. In addition to the Regular Assessments authorized above, the Association may levy such special assessments as may be necessary for the purpose of defraying, in whole or in part: (1) the cost of any construction, reconstruction, repair or replacement of a capital improvement, including fixtures and personal property related thereto, and (2) the expense of any other contingencies or events not provided for in the annual budget or the reserves and working capital of the Association; provided that no special assessments shall be levied without the assent of a majority of the Percentage Vote at a meeting duly called for this purpose. Each Owner of a Unit shall pay to the Association a special assessment based on his Percentage Interest times the total sum approved to meet the costs and expenses as heretofore provided (herein called the "Special Assessment"). The Association may, in connection with the levy of any Special Assessment, specify that the same shall be payable in installments and specify the due dates thereof.

Section 6.05. Adjustments. In the event that the approved budget and Regular Assessments plus the reserves and working capital of the Association prove insufficient to meet the Association's actual expenses in any year, such deficiencies may be corrected through one or more Special Assessments. In the event the approved and Regular Assessments exceed actual expenses in any year, such surplus shall be retained and used to offset expenses in the next year(s) or returned to the Co-Owners in proportion to their Percentage Interests, as the Board of Directors shall elect.

Section 6.06. Temporary Budget and Assessments. If for any reason an annual budget and the annual Assessments for any year have not been determined as of the beginning of such year, the budget and Assessments in effect during the preceding year shall continue in effect until such time as the annual budget and annual Assessments are determined in accordance with the Declaration and these By-Laws; provided, however, that said preceding budget and Assessments may be increased by up to fifteen percent (15%) as the Board of Directors may deem necessary in said temporary budget and Assessments.

Section 6.07. Reserve and Working Capital Funds. The Association shall be obligated to establish a reserve fund for the repair and replacement of those Common Areas that must be replaced periodically, based upon good faith estimates of the useful lives and replacement costs of such Common Areas made or obtained by the Association. The reserve fund shall be funded through the payments by the Owners of Common Expenses and not by an extraordinary or Special Assessment. Extraordinary expenditures not originally included in the annual budget that become necessary during the year shall be charged first against the reserve fund so established before any Special Assessment is made or levied therefor. In addition to the reserve fund, a working capital fund shall be established and maintained by the Association. At the closing of the initial sale of each Unit to an Owner, the

Association shall be paid by the purchaser of such Unit an amount equal to two (2) month's installment of the Regular Assessment for Common Expenses for such Unit, which amount shall be retained by the Association as working capital, which amount shall be adjusted annually so as to always keep on deposit an amount at least equal to two (2) months of the Regular Assessment for Common Expenses for such Unit for said calendar year. Amounts paid or deposited into the working capital fund shall not relieve an Owner from this responsibility for the Regular Assessments due in accordance with this Article VI. All amounts held by the Association pursuant to this Section 6.07 shall be maintained in a federally-insured, interest-bearing account in a bank or savings and loan association doing business in Clark County, Indiana, and all interest thereon shall be added to and deemed a part of such fund. Upon the original sale of a Unit, and the deposit by the new Owner of two (2) months of Regular Assessments, the Association shall refund to the Declarant the amount that the Declarant has on deposit for such Unit.

Section 6.08. Status of Funds. All funds collected pursuant to this Article VI shall be held and expended by the Association solely for the purposes designated herein, and, except for any Special Assessments that may be levied hereunder against less than all the Owners, and except for such adjustments as may be required to reflect delinquent or prepaid assessments, shall be deemed to be held for the use, benefit, and account of all of the Owners for the payment of Common Expenses in accordance with the Owners' respective Percentage interests.

ARTICLE VII

Amendment to By-Laws

These By-Laws may be amended in the same manner and to the same extent as the Declaration.

ARTICLE VIII

Notices and Mortgagees

Section 8.01. Notice to Association. Any Owner who places a first mortgage lien upon his Unit or the Mortgagee thereof shall notify the Secretary of the Association and provide the name and address of the Mortgagee. A record of such Mortgagee and notice required to be given to the Mortgagee pursuant to the terms of the Declaration or these By-Laws shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record at the time provided. Unless notification of any such mortgages and the name and address of the Mortgagee are furnished to the Secretary, either by Owner or by the Mortgagee, no notice to any Mortgagee as may otherwise be required by the Declaration or these By-Laws shall be required, and no such Mortgagee shall be entitled to vote on any matter on which he otherwise may be entitled to vote by virtue of the Declaration or By-Laws or proxy granted to such Mortgagee in connection with the mortgage.

Section 8.02. Notice of Assessments. Upon ten (10) days' written notice to the Association and the payment of a reasonable fee, the Association shall deliver to any Owner, Mortgagee, prospective Mortgagee, title insurance company, purchaser or other prospective transferee of a Unit, a written statement setting forth the amount of all unpaid assessments, if any, with respect to the subject Unit, together with the amount of the current assessments for Common Expenses and the date(s) such assessments become due and payable. Any such written statement shall be binding upon the Association in favor of any person relying thereon in good faith.

Section 8.03. Financing Statements. The Association, upon the request of any Mortgagee, shall provide to said Mortgagee the most recent financial statement prepared on behalf of the Association pursuant to Section 6.01 of these By-Laws.

Section 8.04. Notices to Mortgagees. The Association shall promptly provide to any Mortgagee of whom the Association has been provided notice under Section 8.01 of these By-Laws of any of the following:

- (a) Any condemnation or casualty loss that affects either a material portion of the Regime or the Unit securing its mortgage;
- (b) Any lapse or cancellation of any insurance policy or fidelity bond maintained by the Association; and
- (c) Any proposed action that requires the consent of a specified percentage of Mortgagees.

ARTICLE IX

Miscellaneous

Section 9.01. Corporate Seal. The Association shall have no corporate seal.

Section 9.02. Execution of Contracts and Other Documents. Unless otherwise ordered by the Board, all written contracts and other documents entered into by the Association shall be executed on the Association's behalf by the President or a Vice President, and, if required, attested by the Secretary or an Assistant Secretary.

Section 9.03. Fiscal Year. The Association's fiscal year shall begin on January 1 of each year and end on the immediately following December 31.

Section 17. Condemnation. In the event that all or any part of the Regime shall be taken or condemned by any competent authority, or if any condemnation proceeding shall be instituted with respect to all or any part of the Regime, the Association shall have the right to appear and defend in such proceedings on behalf of the Owners affected thereby and to prosecute on behalf of any such Owners any action or proceeding, at law or in equity, as it may deem appropriate for the adequate protection and compensation of all Owners affected by any confiscatory act of any public body. The proceeds obtained by the Association as a result of any such action or proceeding shall be received by the Association and shall be applied by the Association as follows: (a) the portion of such award which is allocated by the court making such award, or if not so allocated, then as determined by a two-thirds (2/3) majority of the Percentage Vote at a special meeting called for the purpose of making such allocation, to the Buildings or Units taken (such portion hereinafter called the "Building Award"), shall be distributed among the Owners whose Units were taken in proportion to the relative fair market values of the Units so taken as of the date of such taking, or if such fair market values cannot be determined, then equally among such Owners; (b) the balance of such award after payment of the Building Award shall be paid, first, to reimburse the Association for its costs and expenses in obtaining such award, and the balance, if any, shall be paid to each Co-Owner in the Regime in proportion to his Percentage Interest. No amounts or damages shall be paid by the Association to any Owner for any partial taking, partial loss of use, or impedance of access as to any Unit, except to the extent that the amount of any such award is specifically determined by the court making such award or by a two-thirds (2/3) majority of the Percentage Vote of the Association. Nothing in this Section 17 shall be construed to prevent any Owner affected by any condemnation or confiscatory action of any public body from participating in any condemnation proceedings or from prosecuting any action for any recovery for any confiscation of his property, but such Owner shall not be entitled to distribution out of the proceeds received by the Association to the extent that such Owner recovers sums or compensation for the same or similar damages as are the basis of the award to the Association. Nothing herein contained shall be construed to require payment of proceeds to an Owner in derogation of any rights such Owner's Mortgagee may have to such proceeds. No reallocation of Percentage Interest (if any) resulting from a partial condemnation may be affected without the approval of the eligible holders of first mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to mortgages held by such eligible holders are allocated. "Eligible holder" shall mean a holder of a first mortgage who has requested notice in accordance with this Declaration.

Section 18. Casualty and Restoration. In the event of any damage to or destruction of the Property by fire or other casualty, the following provisions shall be applicable:

- (a) In the event of less than complete destruction (as defined in subsection (b) herein below) of the Units in the Building, all Units and other Property shall be promptly repaired and restored by the Association. The proceeds of the insurance shall be applied to the cost of such repair and restoration. If the insurance proceeds are not

adequate to cover the cost of reconstruction or in the event there are no proceeds, the amounts needed to complete the repair and restoration beyond available insurance proceeds shall be paid by all Co-Owners as a Common Expense. The application and use of such insurance proceeds shall be determined by the Board of Directors of the Association acting as trustee under Section 16, or by any Mortgagee electing to act as trustee in place of the Association, and when so determined in good faith shall be binding upon all Owners and Mortgagees.

- (b) In the event that two-thirds or more of the Units in the Regime are damaged or destroyed by fire or other casualty, a special meeting of the Association shall be called. If, at the meeting, a determination is made, by vote of at least a two-thirds (2/3) majority of the Percentage Vote of all Owners in the Regime, that a complete destruction has occurred so that the Building and other Property in the Regime shall not be repaired or restored, then the proceeds of insurance and the Property in the Regime shall be dealt with and disposed of in accordance with Sections 19 and 21 of the Act, as either may be amended from time to time, or in accordance with any substitute provisions governing such matters as may be enacted subsequent to the date of this Declaration, with distributions of proceeds to be made to the Owners in proportion to the relative fair market values of their respective Units immediately prior to such destruction, if and to the extent values can be determined and if and to the extent such distribution is permitted by applicable law.
- (c) Restoration, for purposes of subparagraphs (a) and (b) above, shall mean construction or rebuilding of the Units and other Property to substantially the same conditions as they existed immediately prior to the destruction and with a similar quality of materials and workmanship and similar type of design and architecture, but excluding all improvements and property added to or kept in or about such Units by any Owner.
- (d) In the event restoration of units is necessary, and notwithstanding any provision in Sections 16 or 18 of this Declaration to the contrary, the insurance funds for such restoration shall be disbursed by any Mortgagee (if it elects to do so) which holds mortgages on fifty-one percent (51%) or more of the number of Units that need to be restored; otherwise, the insurance funds shall be disbursed by the Association or its Insurance Trustee. Such distribution and payment of funds shall be in the manner and in accordance with the procedure normally used when disbursing funds for initial construction. Each insurer shall be notified of this provision by the Association and each policy of insurance shall comply herewith. Nothing contained in Sections 16 or 18 shall be construed to require payment of any proceeds to an

Owner in derogation of any rights such Owner's Mortgagee may have to such proceeds.

Section 19. Negligence. Each Owner shall be liable for the expense of any maintenance, repair, or replacement of any of the Property which becomes necessary by reason of his negligence or intentional misconduct or that of any member of his family or his or their guests, employees, agents, lessees, other authorized occupants or visitors, or Owner's pets, to the extent that such expense is not covered by the proceeds of insurance carried by the Association. An Owner shall pay the amount of any increase in insurance premiums occasioned by his use, misuse, occupancy, or abandonment of his Unit or its appurtenances or of the Common Areas.

Section 20. Real Estate Taxes. Real estate taxes are to be separately taxed to each Unit and the Percentage Interest connected therewith, as provided in the Act. In the event that for any year real estate taxes are not separately assessed and taxed to each Unit, but are assessed and taxed on the Real Estate as a whole, then each Owner shall pay his proportionate share of the real estate taxes. Each Owner's proportionate share will be equal to the Percentage Interest then appurtenant to the Owner's Unit due and payable in such year.

Section 21. Utilities. Each Owner shall pay for the electrical utilities provided to his Unit which are separately billed and metered for his Unit. Water and sewer utilities provided to the Units and the Common Area and the electrical utilities provided to the Common Area shall be treated and paid as part of the Common Expenses.

Section 22. Use and Sale of Units. For the purpose of maintaining the residential character of the Regime, and for the protection of Co-Owners, Declarant specifically reserves the mode and method of the original sale of each Unit until the last Unit in the Regime is sold. Subsequent to said original sale, any Owner may sell his Unit subject to the terms and provisions hereof. Declarant may designate any Unit owned by Declarant and/or the existing management office in the Building (the "Office") for location of a sales and/or management office. The Unit and/or Office so designated may also be used, at the option of Declarant, as a furnished or unfurnished model, and Declarant may further designate from time to time, at its option, any other Units in the Regime owned by Declarant, for use as finished or unfinished models. Any Units and/or Office designated by Declarant for use as models and/or as a sales and management office may, at Declarant's option, either be owned by Declarant or sold and leased back by Declarant for such purpose, and such lease back may be for any term desired by Declarant. The right of Declarant to so designate and use such Units and/or Office shall continue so long as Declarant owns any Units within the Property, and no action of the Association or any Owner shall impair such right. Upon discontinuation of such use by Declarant, each such Unit shall not become Common Area, but shall be treated as a Unit for all purposes of this Declaration. In addition, Declarant shall be entitled to use any Unit owned by it and any portion of the Common Area for temporary placement of a construction trailer and for

temporary storage of construction equipment, materials and supplies, until such time as construction within the Regime has been completed.

Section 23. Amendment of Declaration.

A. Amendment Procedure. Except as otherwise provided in this Declaration, this Declaration may be amended in the following manner:

- (a) Notice. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting at which the proposed amendment is considered, including any annual meeting.
- (b) Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Directors or by the Owners of at least a majority of the Percentage Vote.
- (c) Meeting. The resolution concerning a proposed amendment must be adopted by the appropriate majority vote at a meeting duly called and held in accordance with the provisions of the By-Laws.
- (d) Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than sixty-seven percent (67%) of the Percentage Vote, or such higher percentage as set forth below. In the event any Unit is subject to a mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions of the By-Laws.
- (e) Amendments. No amendment to this Declaration shall be adopted which changes:
 - (1) The Percentage Interest with respect to any Unit or the share of an Owner's liability for Common Expenses, without the approval of ninety percent (90%) of the Percentage Vote and the approval of all Mortgagees having mortgages on any Units in the Regime whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of the By-Laws;
 - (2) The provisions of Section 18 of this Declaration with respect to reconstruction or repair in the event of fire or casualty, without the approval of sixty-seven percent (67%) of the Percentage Vote and the unanimous approval of all Mortgagees whose mortgage interests have been made known

to the Board of Directors in accordance with the provisions of the By-Laws;
or

- (3) Any provision of this Declaration or the By-Laws which would be deemed to be of a material nature by HUD, or the Federal National Mortgage Association ("FNMA") under any current Lending Guide or any subsequent, relevant guidelines which FNMA or HUD may issue, or which would be deemed to be of a material nature under the regulations or requirements of the Veterans Administration, without the approval of sixty-seven percent (67%) of the Percentage Vote and the approval of all Mortgagees having mortgages on any Units in the Regime whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of the By-Laws.

Any Mortgagee which has been duly notified of the nature of any proposed amendment shall be deemed to have approved the same if said Mortgagee or a representative thereof fails to appear at the meeting in which such amendment is to be considered (if proper notice of such meeting was timely given to such Mortgagee). In the event that a proposed amendment is one permitted by this Section and is deemed by the Board of Directors to be one which is not of a material nature, the Board of Directors shall notify all Mortgagees whose interests have been made known to the Board of Directors of the nature of such proposed amendment, and such amendment shall be conclusively deemed not material if no Mortgagee so notified objects to such proposed amendment within thirty (30) days of the date such notices are mailed and if such notice advises the Mortgagees of the time limitation contained in this sentence.

- (f) Recording. Each amendment to this Declaration shall be executed by Declarant only in any case where Declarant has the right to amend this Declaration without any further consent or approval, and otherwise by the President or Vice President and Secretary or Assistant Secretary of the Association; provided, that any amendment requiring the consent of Declarant shall contain Declarant's signed consent. All amendments shall be recorded in the Office of the Recorder of Clark County, Indiana, and no amendment shall become effective until so recorded.

The provisions of this Section 23 are subject to the rights given to the Declarant by virtue of the irrevocable proxies held by Declarant on behalf of the respective Owners, as provided in Section 8 hereinabove.

B. Special Amendment Procedure. Notwithstanding anything contained in this Declaration to the contrary, this Declaration may be amended in accordance with the special amendment procedure set forth in this Section 23.B in the event of the following:

- (a) an Owner wants to combine two or more Units into one Unit;
- (b) an Owner of either Units 312 and 313, 412 and 413, 512 and 513, 612 and 613, 712 and 713, 812 and 813, 912 and 913 or 1012 and 1013 wants to combine such Units, then, and in such event, the hallway utilized for only such Units may be incorporated and contained in such combined Unit; or
- (c) an Owner wants to change the floor plan of the Unit by changing the interior walls of the Unit.

Collectively or separately (a), (b) and (c) above are hereinafter referred to as "Interior Changes".

In the event an Owner wants to perform Interior Changes to the Unit or Units, the Owner and/or the Association shall cause an appropriate instrument of amendment to this Declaration of Regime to be prepared and executed by such Owner and/or the Association, which instrument shall be joined in by the President of the Association and recorded. Such instrument of amendment does not need to be approved by any of the other Owners.

Such instrument of amendment shall attach copies of any and all necessary permits issued by the municipal or other governmental subdivision having jurisdiction over the issuance of permits for the Interior Changes and such instrument of amendment shall reference a copy of the floor plan for the Interior Changes which will be filed in the Condo Plat Book of the Clark County, Indiana records.

Section 24. Amendments for Mortgage Purchaser. In the event that FNMA, FHLMC, FHA, VA, or other nationally recognized purchaser, guarantor, or insurer of a mortgage of any property in this Regime should impose any requirements pertaining to the attributes of the Regime or the provisions of this Declaration or the By-Laws, for purposes of qualifying for or agreeing to the purchasing, insuring, or guarantying of any such mortgage, the Declarant or the Board of Directors may fully satisfy such requirements, and shall have the right to amend this Declaration in accordance therewith, without the approval or consent of any Owner or Mortgagee.

Section 25. Reservation of Rights. Declarant reserves the right to amend this Declaration, including, without limitation, the Plans pertaining to the Real Estate, without consent of the respective Owners or the Association or any Mortgagee holding a Security Lien until the control of the Regime is turned over to the Association, provided that no such amendment shall materially impair the rights of any Mortgagee, nor substantially deprive the Co-Owners, or any of them, of the rights conferred upon them by this Declaration or the By-Laws. Any Mortgage, Deed of Trust or

other Security Instrument secured by a lien on any Unit shall be subject and subordinate to any such amendment by Declarant under this Section 25.

Section 26. Enforcement of Covenants and Restrictions. The various covenants and restrictions applicable to the use and enjoyment of the Units, as set forth in this Declaration, are for the mutual benefit and protection of the present and future Owners and shall run with the land and shall be binding upon and inure to the benefit of every Owner, the Co-Owners, and the Board of Directors on behalf of the Association, and their respective heirs, successors and assigns. Available relief in any action brought to enforce this Declaration shall include damages and injunctive relief against any violation or attempted violation of these provisions, and the recovery of any damages, costs, interest or expenses incurred, and attorneys' fees incurred by any party successfully enforcing this Declaration against any other party, but there shall be no right of reversion or forfeiture of title resulting from any violation. In addition, the Board of Directors is hereby authorized, during the period of any default or delinquency, to take actions to enforce compliance with such provisions, rules, regulations or decisions, including, without limitation: (i) the revocation of a defaulting Owner's right to use General Common Areas designed for recreational purposes, and (ii) the suspension of a defaulting Owner's voting privileges; provided, however, that no such enforcement action shall affect the rights of a Mortgagee hereunder.

Section 27. Costs and Attorneys' Fees. In a proceeding arising because of an alleged failure of an Owner to make any required payments or to comply with any provision of this Declaration, the Act, the By-Laws, or the rules and regulations adopted pursuant thereto, as each may be amended from time to time, the party initiating such proceeding shall be entitled to recover its reasonable attorneys' fees incurred in connection with such proceeding, if it is found or agreed in such proceeding that a failure to make payment as required hereby or a violation of this Declaration, the Act, the By-Laws, or the rules and regulations adopted pursuant thereto, as each may be amended from time to time, did occur.

Section 28. Acceptance and Ratification. All present and future Owners, Mortgagees, tenants, and occupants of the Units shall be subject to and shall comply with the provisions of this Declaration, the Act, the By-Laws, and the rules and regulations as adopted by the Board of Directors, as each may be amended from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Unit shall constitute an agreement that the provisions of this Declaration, the Amendments, the Act, the By-Laws, and any rules and regulations adopted pursuant thereto, as each may be amended from time to time, are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Unit or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. Each Owner agrees to execute and deliver such other documents, if any, as may be necessary or desirable to comply with the Act as it may be amended from time to time. All persons, corporations,

partnerships, trusts, associations, or other legal entities who may occupy, use, enjoy or control a Unit or Units or any part of the Property in any manner shall be subject to this Declaration, the Act, the By-Laws, and the rules and regulations applicable thereto, as each may be amended from time to time.

Section 29. Waiver. No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or by abandonment of his Unit. The Association does not waive the right to hold a lien on the Unit and foreclose same by any failure to take action when any payment of any Assessment is not timely made when due by any Owner.

Section 30. Construction and Severability. This Declaration and the By-Laws are intended to comply with the provisions of the Act, and shall be construed whenever possible to be consistent therewith. The invalidity of any covenant, restriction, condition, limitation, or other provision of this Declaration or the By-Laws filed herewith shall not impair or affect in any manner the validity, enforceability, or effect of the rest of this Declaration or the attached By-Laws. If any of the options, privileges, covenants, rights, or interests created by this Declaration would otherwise be unlawful or void for violation of (a) the rule against perpetuities or any analogous statutory provisions, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the date of this Declaration.

Section 31. Notices. Any notice required or permitted to be sent under this Declaration or the By-Laws shall be sufficient if delivered personally or sent by first-class U.S. Mail, postage prepaid, to the address shown on the records of the Association; provided, however, that notices to Mortgagees shall be sent by U.S. Certified Mail, Return Receipt Requested, or by U.S. Registered Mail.

Section 32. Financial Statement. Upon written request from HUD, VA, FNMA, FHLMC or any holder, insurer or guarantor of any first mortgage in connection with an interest or prospective interest in a Unit or the Regime, the Association shall prepare and furnish to said entity within a reasonable time of said written request an unaudited financial statement of the Association for the preceding fiscal year. The unaudited financial statement shall be available within one-hundred twenty (120) days of the Association's fiscal year end.

Section 33. Estoppel Certificate. Any Mortgagee and any prospective purchaser of a Unit shall be entitled upon written request therefor to a statement from the Association setting forth the amount of any unpaid Common Expenses, Regular Assessments or Special Assessments not paid by the Owner of a Unit in which such prospective purchaser or Mortgagee has an interest. Any prospective purchaser shall not be liable for nor shall the Unit conveyed be subject to the lien


provided for in this Declaration for any unpaid Common Expenses, Regular Assessments or Special Assessments made by the Association against the particular Unit involved in excess of the amount set forth in such statement. Any such purchaser shall, however, be liable for any Common Expenses, Regular Assessments or Special Assessments becoming due after the date of any such statement.

Section 34. Storage Spaces. During the time period prior to Declarant turning over control of the Regime to the Co-Owners, the Declarant shall have the right to rent to any of the Owners any space in the General Common Area that can be utilized for storage purposes. After Declarant turns over control of the Regime to the Co-Owners, the Association shall have the right to rent to any of the Owners any space in the General Common Area that can be utilized for storage purposes. Any storage spaces shall not, when rented to an Owner, be appurtenant to a Unit, but shall be under the exclusive control of the Owner to whom said storage space is rented; and said Owner's exclusive right to use such storage space shall be subject to the terms set forth by the Declarant or the Association.

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed the day, month and year first above written.

THE HARBOURS AT RIVERPOINTE, L.P.,
a Delaware limited partnership

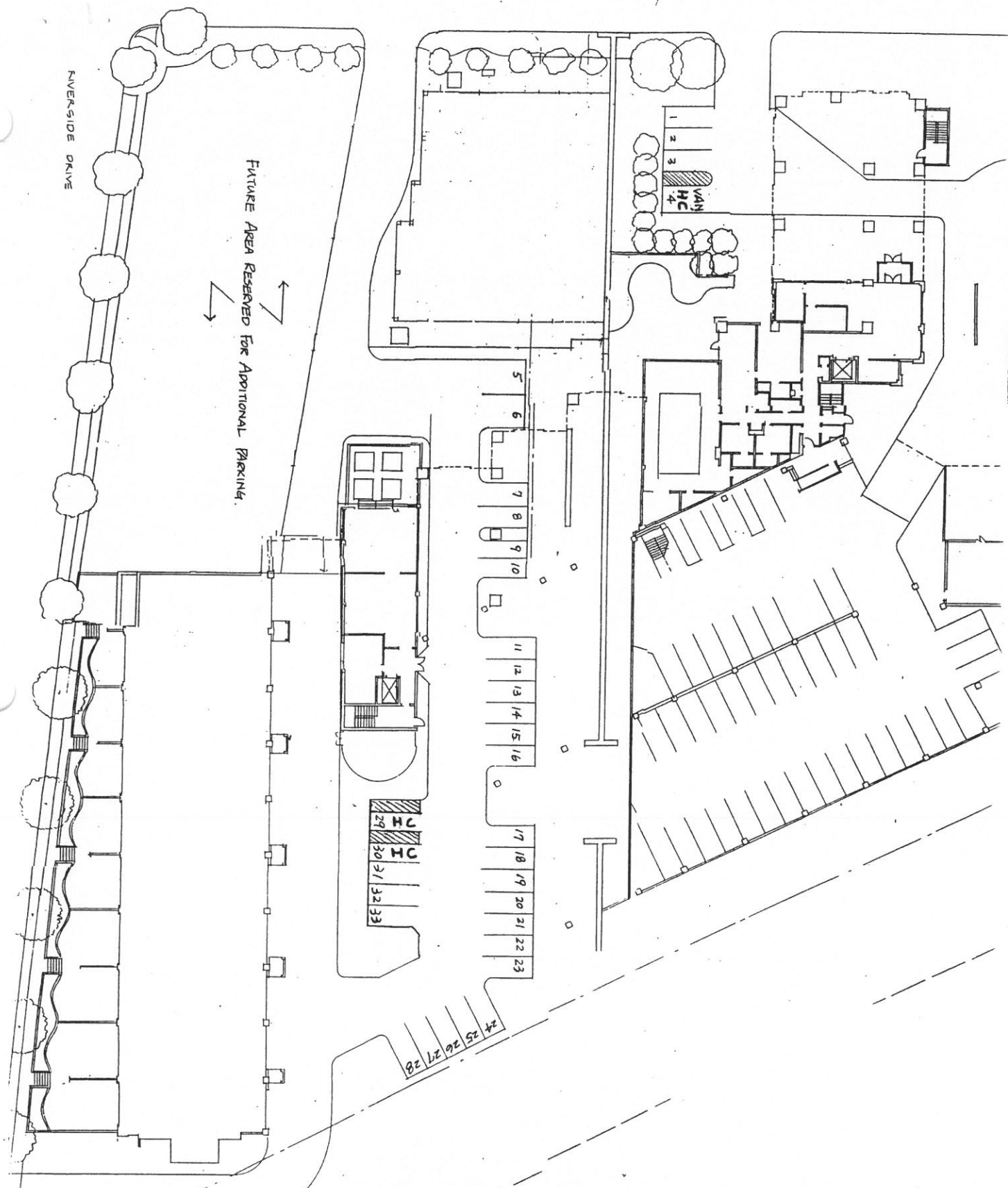
By: Creekstone/Overbrook, LLC, a Delaware
limited liability company, its sole general
partner

By: 
Alan D. Feinsilver, President

Exhibits A - Legal Description
 B - Code of By-Laws
 C - Parking Plan
 D - Percentage Interest

EXHIBIT C

Parking Plan



SURFACE PARKING

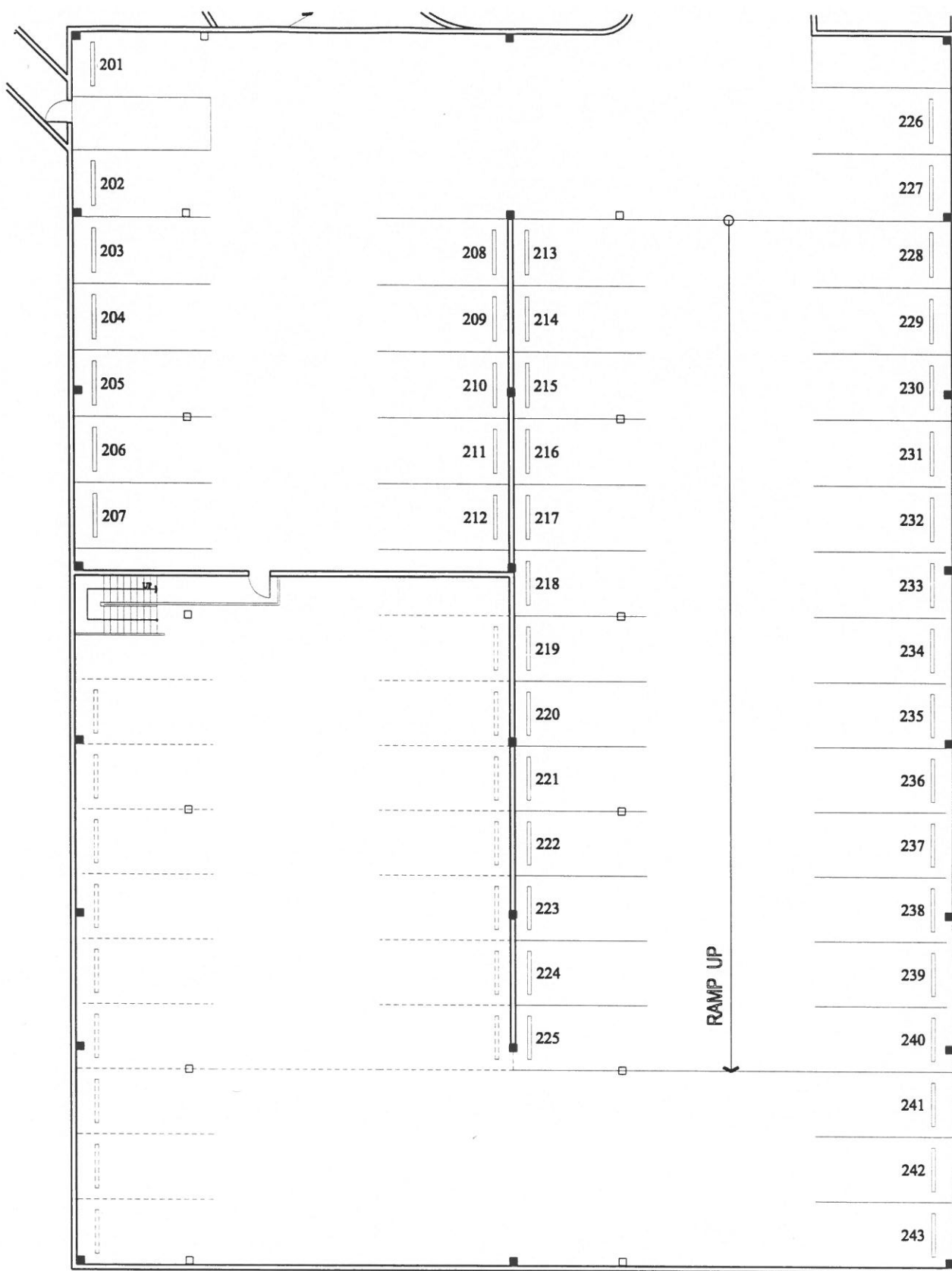
THE HARBOURS

Jeffersonville Indiana



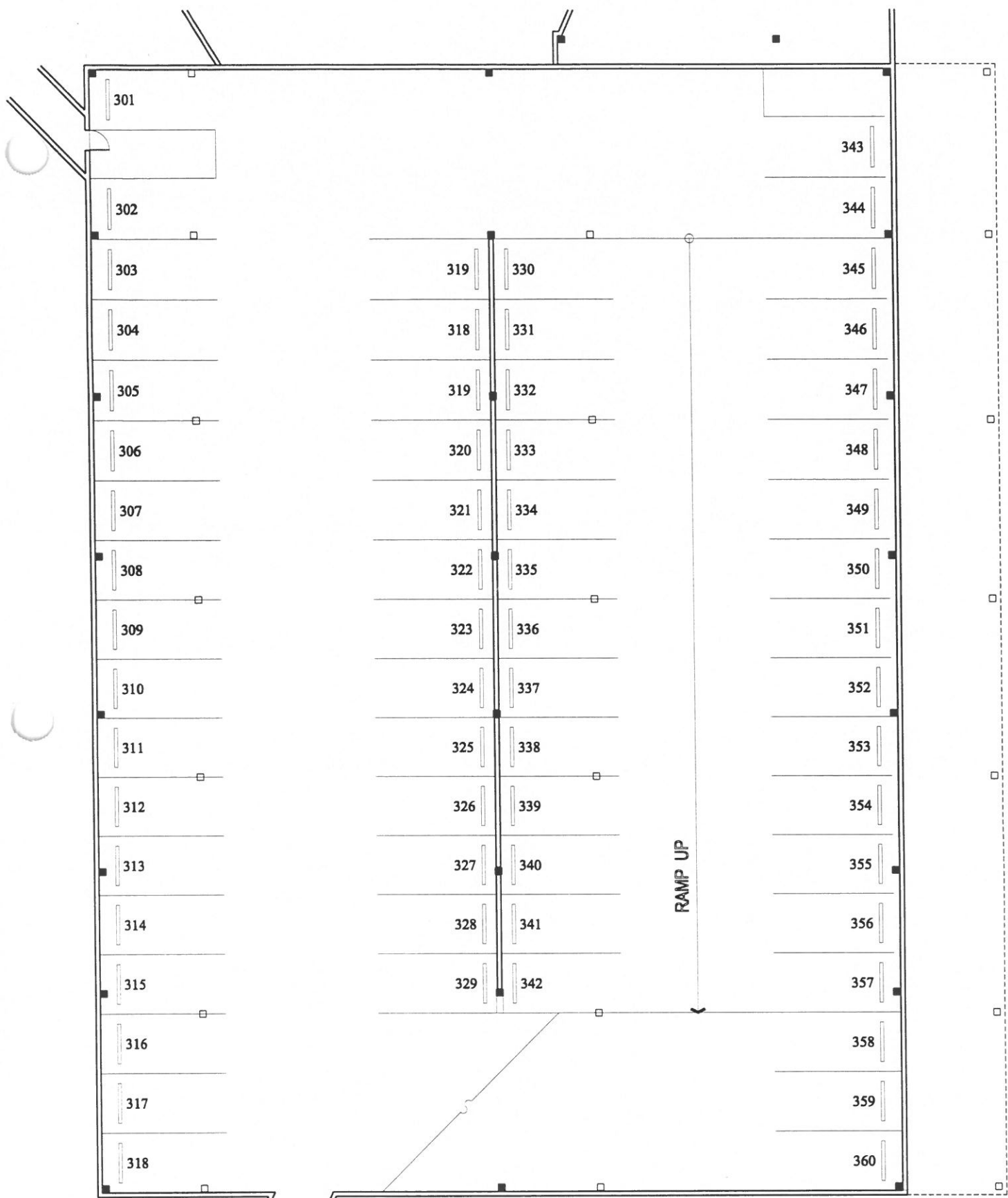
FIRST FLOOR PLAN @ GARAGE

THE HARBOURS
 Jeffersonville Indiana



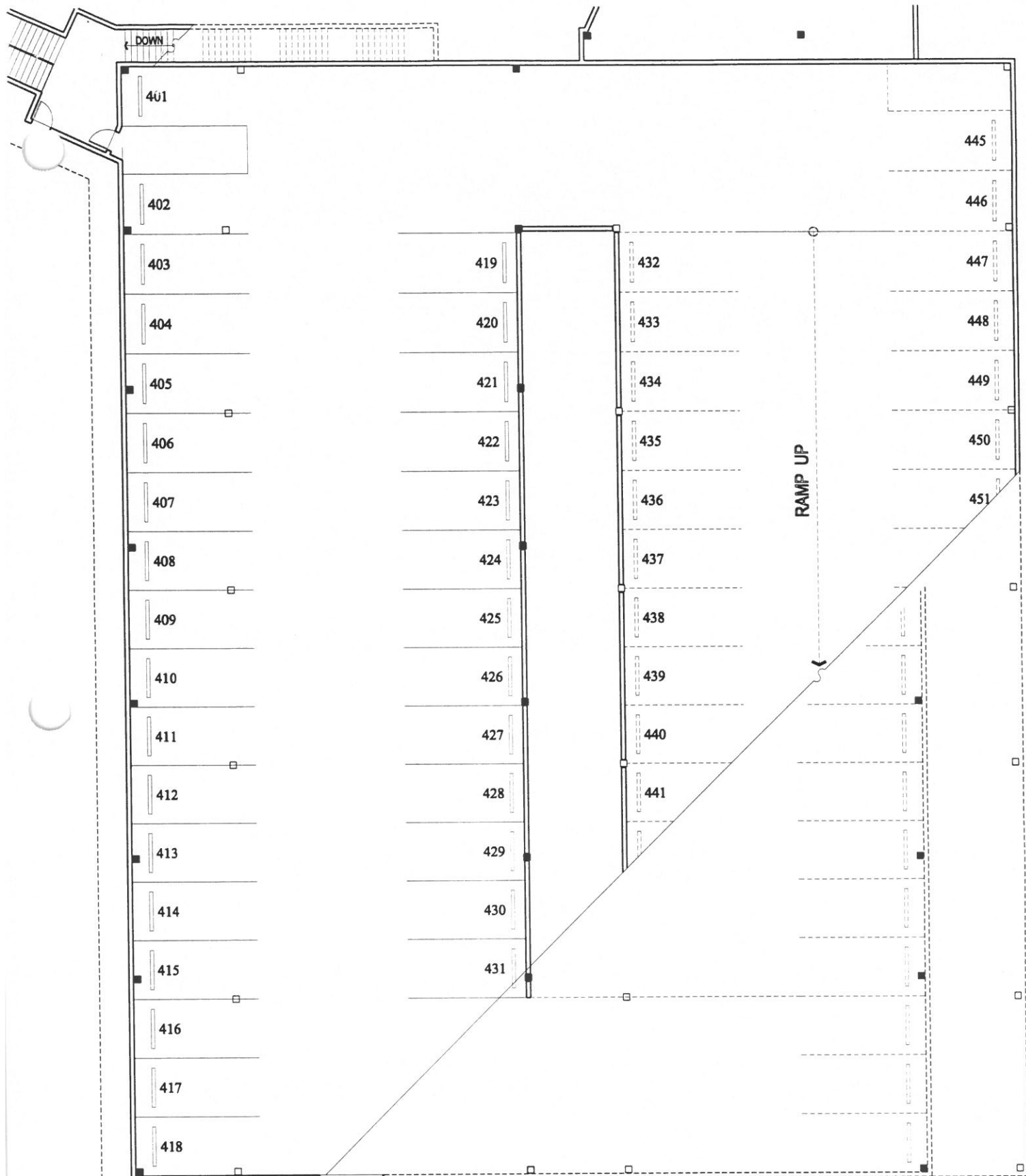
SECOND FLOOR PLAN @ GARAGE

THE HARBOURS
 Jeffersonville Indiana



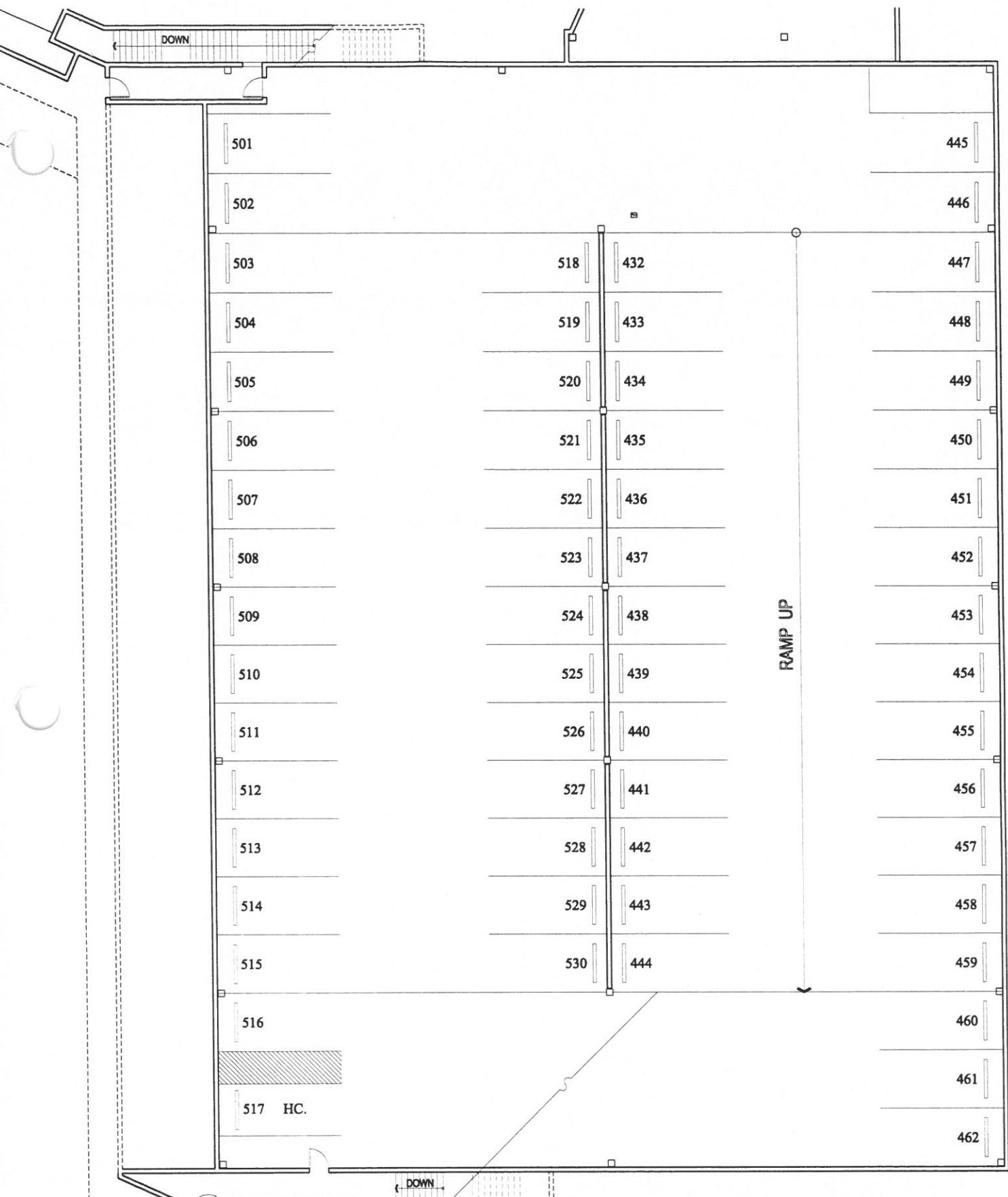
THIRD FLOOR PLAN @ GARAGE

THE HARBOURS
 Jeffersonville Indiana



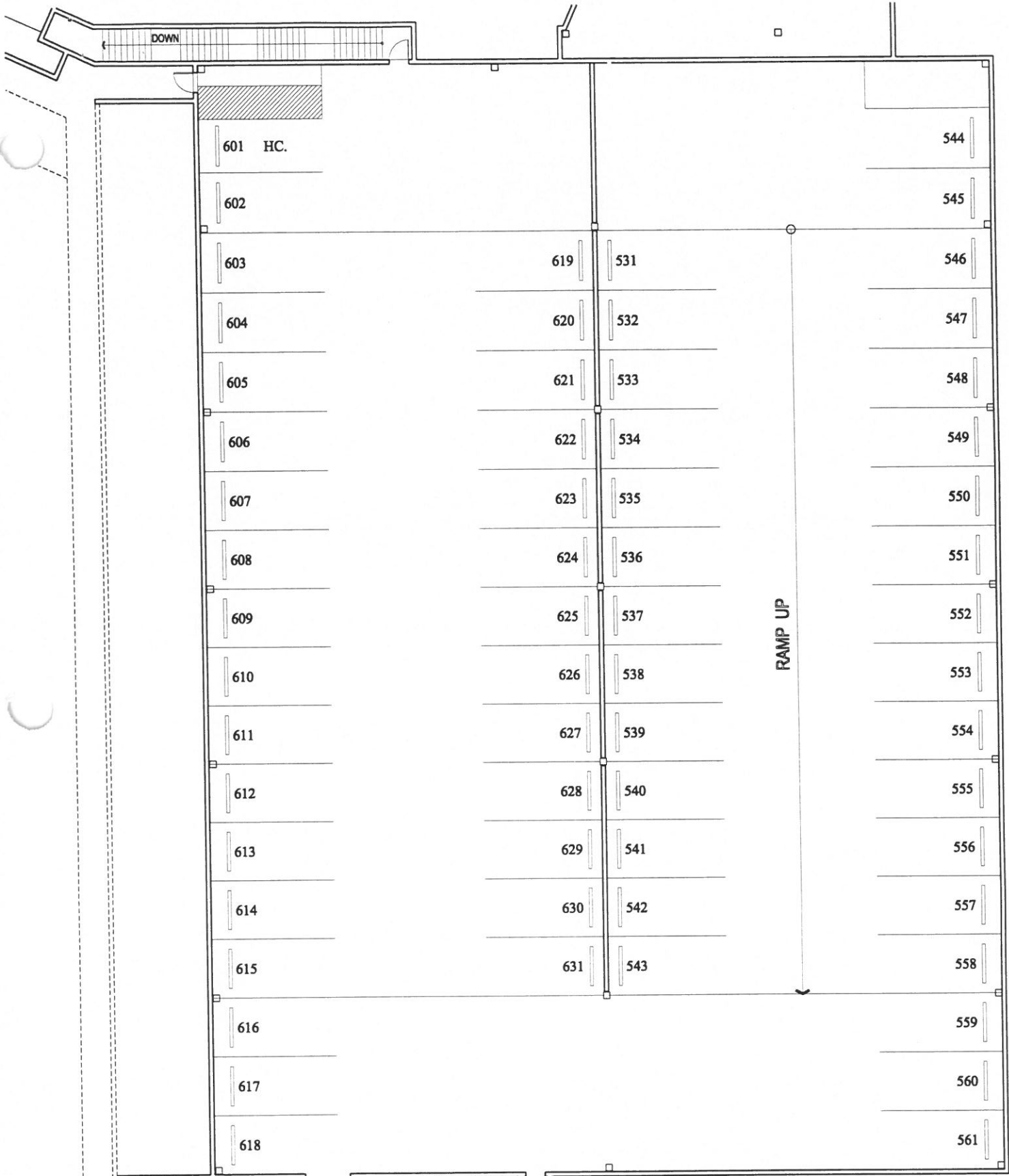
FOURTH FLOOR PLAN @ GARAGE

THE HARBOURS
 Jeffersonville Indiana



FIFTH FLOOR PLAN @ GARAGE

THE HARBOURS
 Jeffersonville Indiana



SIXTH FLOOR PLAN @ GARAGE

THE HARBOURS
 Jeffersonville Indiana