

--MEMORANDUM--

MEMO TO: City Council

FROM: Gregory E. Buckley  
City Manager



DATE: July 28, 2023

SUBJECT: Blue Heron Condominiums

Back in early June, representatives of the Board of Directors for the Blue Heron Condominium Association met with City staff. The purpose of that meeting was to discuss questions relating to what condo owners receive in City services, paid through property taxes or City fees, versus services paid for privately, through their association fees.

The board members expressed an interest in discussing whether their development might begin receiving certain City services—like leaf collection along the private streets in Blue Heron—which they currently do not receive. I believe that there is some room for movement on certain services.

The board members also expressed an interest in the City taking responsibility for what are now private streets and utilities within the condominium association, owned by the association. I stated at the meeting that there is no way I could recommend to the City Council that the City's general taxpayers and utility ratepayers assume those responsibilities.

Some background and history follows.

Background/History

To date, each of the residential condominium developments that we have seen in Two Rivers has been approved as a *planned unit development (PUD)* with *private streets and utilities*. In addition to Blue Heron Condominiums, those developments include Mahogany Run Condominiums, Rivers Edge Condominiums and Washington Highlands condominiums.

In each of these developments, the developer proposed to provide private streets and utilities, versus standard municipal infrastructure. Generally, going this route enabled the various developers to deliver these projects with a lower cost for infrastructure and with higher density development of the property (due to narrower streets, no sidewalks and lesser building setbacks than required in traditional residential neighborhoods) than would otherwise be the case. (Note: the design for such private infrastructure was /is still subject to City approval and subject to various State codes.)

By going this route, the developers were able to bring these developments to market with housing units at a lower cost and therefore a lower price point than traditional development. Good for the developer, presumably good for the purchaser. But it also meant that the future condo owners would be paying, through their association fees, for certain services that are typically funded by the City, through property taxes or user fees. Those generally include:

--Street maintenance, including snow and ice control, patching, resurfacing and reconstruction

--Maintenance, repair and replacement of all water, sewer, and storm sewer facilities, both mains and service laterals.

Now, there are a few exceptions when it comes to utilities:

1. In the case of Blue Heron, the City did agree “up front,” when the development received City approvals in 1992, to maintain the sewer lift station that serves that development, provided it was built to City standards with design approved by the City Engineer.
2. In each of these developments, the electric utility infrastructure was all installed by the City’s Electric Utility, at the developer’s expense, and is maintained by the City’s Electric Utility.
3. In 2000, developer Jeffrey Check, as he was pursuing plan approval for the River’s Edge Condos off 45<sup>th</sup> Street, conditioned his investment in that project on a City commitment to enter into agreements with that condo association and the others already created, to provide routine sewer main cleaning and water main flushing. The City Council agreed to this condition and subsequently entered into such agreements with not only Rivers Edge, but also Mahogany Run and Washington Highlands. Interestingly, the City does not have such an agreement with Blue Heron, nor do we routinely provide such services at Blue Heron.

#### What Might the City Do for Blue Heron?

From City staff’s perspective, there might be justification for providing the following additional services within the Blue Heron Condos property:

Leaf Collection. City leaf collection service is currently available to Blue Heron on the same basis as that service is provided to other properties in the City: rake your leaves into the gutter along the adjoining public street, and the City will pick them up. But that’s not real practical when the only PUBLIC street frontage is along Riverview Drive and a short portion of Blue Heron Drive.

Staff believes that it would be fair and equitable for the City to pick up leaves along the PRIVATE streets of the Blue Heron Condos, subject to a written agreement between the parties. After all, that service is funded through the Environmental Fee on utility bills, and Blue Heron unit owners pay that fee just like every other homeowner.

And, for leaf pickup at least, the private streets at Blue Heron can be used for pickup in front of each residential unit, just as is done on public streets. Just like the City’s contractor, Manitowoc Disposal, sends garbage and recycling collection trucks down those private streets. Such service would not constitute maintenance of the private infrastructure.

Street Sweeping. The same might be said for street sweeping, also funded through the environmental fee, also not constituting maintenance of private infrastructure.

#### What Should the City Not Do for Blue Heron?

It is staff’s recommendation the that the City not provide any taxpayer or utility ratepayer funded services to maintain, repair or replace the private infrastructure that is located on the private property of the various condominium developments, including Blue Heron, except to the extent it is already doing so, as identified in this memo, and except in the event an emergency requires such City assistance.

That infrastructure was developed privately and is owned privately. That was clear at the time the development received City approvals for construction, and it is clear in the condominium documents provided to each condo owner.

We appreciate the quality housing that these developments have provided, and the support for providing quality public services that each unit owner provides through their property taxes and utility bills. But those services do not extend to the maintenance, repair or replacement of private infrastructure within those developments.

Attachments:

Page 4	Aerial Map of the Blue Heron Condominiums
Pages 5-27	1999 City Manager letter to the Blue Heron Condo Association officers, regarding services provided by the City, with ordinance excerpts and records from 1992 City approval of PUD
Pages 28-32	2000 Agreement with Mahogany Run Condos for routine flushing of water mains and cleaning of sewer mains, along with City Council authorizing resolution
Pages 32-79	Disclosure Materials for Blue Heron Condominiums, as recorded with the Register of deeds and provided to each unit purchaser

7/28/23, 10:38 AM

image.png



R. Schmitt



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July 22, 1999

Mr. James Robinson  
Blue Heron Condominium Owners Association  
1726 Blue Heron Drive  
Two Rivers, WI 54241

RE: Your Letter of July 12, 1999

Dear Jim:

I have received and reviewed the above-cited letter from you and Eugene Kostka, representing the Blue Heron Condominium Owners Association.

To properly respond to your concerns, I have had City staff review files pertinent to the establishment of Blue Heron as a planned unit development, as well as the City's policies for administering both public and private fire protection charges.

Based on the very clear documentation on file, I have concluded that the Blue Heron development is being treated in a manner that is entirely consistent with the agreement struck between the City and Blue Heron's developers, back in 1992.

The City Council in March of 1992 approved construction of Blue Heron as a **Planned Unit Development (PUD)**. The City's Zoning Ordinance (excerpt enclosed) provides that PUD's may be employed "to provide opportunity for the construction of quality developments by providing flexible guidelines where strict adherence to zoning codes precludes the use of innovative but sound development practices." The PUD was approved only after careful review by City staff and the Plan Commission, and after the conducting of a public hearing by the City Council.

The enclosed memo from Public Works Director Mike Lewis has with it relevant excerpts from both Plan Commission and City Council meetings in late 1991/early 1992, when City approval of this development was being considered. You will note that the Plan Commission recommended that numerous conditions be attached to approval of the PUD, and that the City Council's approval specifically referenced eight such conditions. Those conditions included:

- a. The roadway, being of substandard design and unacceptable for public street purposes, shall be and shall remain a private road and all maintenance thereof shall be the sole responsibility of the owner.
- b. Utilities including water, storm sewer, and sanitary sewer systems, except the sanitary lift station, shall be private systems installed and maintained entirely by the owner."

Jeffrey Check and partners were the owner of Blue Heron at the time of its initial development; the owner of that facility, its roadways and its underground utilities is now the Blue Heron Condominium Owners Association. Infrastructure maintenance activities that were identified as the Owner's responsibility at the time the PUD was approved remain the Owner's responsibility, even if that owner is now an association of nearly forty condominium owners.

Are Blue Heron property owners subject to a "different set of rules" for maintenance of the roads, water system and sewer system than most other City homeowners? Yes, absolutely they are. Is this arrangement legal and legitimate? Yes, absolutely it is. Were it not for the PUD process, and the legitimate give and take it allows between the City and a developer in fashioning a mutually acceptable development plan, the Blue Heron development as we know it could not exist today. The City was not a party to subsequent transactions between the developer and individual condominium purchasers; one can only assume that a properly-informed buyer would have been aware of the association's responsibilities for road, water and sewer systems.

Your Association recently paid \$320 to the City for sewer flushing services because:

1. Cleaning of Blue Heron's private sewer lines is the responsibility of that sewer system's owner (your association).
2. A representative of the association requested such service of the City, and upon being told that the service would likely cost \$500 or less, authorized the work being done.

Condominium owners within your association pay a monthly **public fire protection fee** on their City utility bills, just like all other City property owners. That fee, \$4.43 per month for the typical single family residence, is predicated on meter size, and generates revenue for the water utility to offset its cost of providing water system capacity for fire fighting purposes.

Your association presently pays a **private fire protection fee** of \$38 per month, which is the fee applicable to a private fire protection system served by a 6-inch un-metered connection. Thirty-four other facilities in the city are likewise served by private fire protection systems, which rely on the City water supply to feed those private systems. Those properties also pay private fire protection fees, which vary in amount based on the size of the connection through which they are served. The charging of that fee is dictated by the Public Service Commission of Wisconsin, which regulates Two Rivers' municipal water and electric rates. For more information on both public and private fire protection charges, please refer to the enclosed memo from City Customer Service Supervisor Jane Kaminsky.

Blue Heron condominium owners receive the same level of City services for their tax dollars as do other local homeowners. The public streets (Riverview Drive, a portion of Blue Heron Drive) providing access to your development are maintained by the City--and we will soon be adding sidewalks along Riverview Drive that will provide a walking link from your area into town. Blue Heron residents are protected by the same City Fire and Police Departments, have access to the same parks, recreation programs and Public Library, and can be buried in the same tax-subsidized public cemetery as other Two Rivers residents. The only difference between your neighborhood and a traditional City neighborhood is that the "street" out front is a private driveway, and the utilities beneath that street are privately installed and maintained, not part of a municipal system.

I discussed both your letter and the attached information with the City Council, meeting as Committee of the Whole, this past Monday, July 19. The Council and I can appreciate the confusion and frustration that result from comparing Blue Heron to a traditional city neighborhood, served by municipal infrastructure. But the Council also concurs with my previous statements that Blue Heron condominium owners are responsible for maintenance of the private roads and utility systems that serve their development (see enclosed minutes).

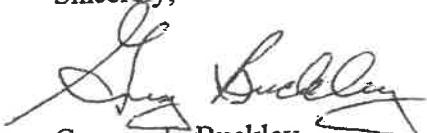
While you may not be pleased with the response contained in this letter, I am willing to meet with your association to further explain the City's position in this matter. I expect that some representatives of the City Council would likewise be available for such a meeting.

Should you retain legal counsel to represent the Association in this matter, (an option I mention only because it was suggested in your letter), I would ask that all of your attorney's communications with the City be directed to City Attorney Jack Bruce at Whyte, Hirschboeck, Dudek, Post Office Box 2225, Manitowoc, WI 54221-2225.

The City of Two Rivers is indeed very pleased to have the Blue Heron Development as part of the community. We want to be responsive to your concerns as City residents, while still being respectful of the legal conditions underlying the Blue Heron PUD. I hope that the information supplied with this letter helps explain those legal conditions.

Please feel free to contact me with any other questions or concerns.

Sincerely,



Gregory E. Buckley  
City Manager

cc: City Council  
Department Heads

## **ARTICLE D**

### **PLANNED UNIT DEVELOPMENTS**

#### **SEC. 10-1-40 PLANNED UNIT DEVELOPMENTS; PURPOSE**

This Article of the Zoning Ordinance of the City of Two Rivers is hereby adopted to facilitate the construction of Planned Unit Developments. The Planned Unit Development District and uses created herein are intended to provide opportunity for the construction of quality developments by providing flexible guidelines where strict adherence to zoning codes preclude the use of innovative but sound development principals.

#### **SEC. 10-1-41 PLANNED UNIT DEVELOPMENTS; AREA OF APPLICABILITY**

A Planned Unit Development shall be a separate Residential District that is identifiable as a distinct neighborhood and may contain one, two or multi-family dwellings.

#### **SEC. 10-1-42 PLANNED UNIT DEVELOPMENTS; DEVELOPMENT CONTROLS**

##### **(a) YARDS.**

(1) A landscaped yard shall be provided and maintained along all streets and traveled rights-of-way. The yard shall be at least twenty-five (25) feet in depth along all streets as measured from the street right-of-way. The yard shall extend along the entire frontage(s) of the lot except for driveways, and shall be kept clear of all storage, structures, and off-street parking.

(2) Exceptions. Any landowner intending to propose a yard of less than the required twenty-five (25) foot depth must first apply for and receive a variance to that requirement. The Plan Commission may approve the variance if, in their judgment, the alternative plan is in conformity with the intent and purpose of this Section and reasonably related

to the established pattern of the neighborhood. Before any such alternative plan shall be approved it shall contain as a minimum a buffer area on both sides of driveways and curb cuts with a minimum of twenty-five (25) feet in depth as measured from street right-of-way and not less than eight feet in width as measured parallel to the driveway.

(b) INTERIOR SIDE YARD. An interior side yard shall be provided for those parcels in a Planned Unit Development District which border upon other districts; such side yard shall abut the adjacent district and shall be not less than eight (8) feet in width except that for accessory buildings not exceeding 500 square feet in area the minimum width of such interior side yard shall be three (3) feet.

(c) EXTERIOR STORAGE.

(1) All materials, machinery and equipment shall be stored within a building or fully screened so as not to be visible from adjoining or adjacent lands, except for the following: Laundry drying lines and recreational equipment; construction materials, machinery and equipment currently being used on the premises during the course of construction; landscaping equipment and machinery currently being used or intended for use on the premises.

(2) Major recreational equipment, defined for the purposes of this Section as travel trailers, pick-up campers or coaches, motorized dwellings, tent trailers, boats and boat trailers, less than eight (8) feet in height above the ground may be stored in any rear yard except when such yard is adjacent to a street. In addition to the general eight (8) foot height permitted, minor portions of such equipment not exceeding four (4) square feet in vertical cross-section as viewed from the adjacent lot line is permitted. No such equipment shall be stored out of doors unless it is in condition for safe and effective performance of the function for which it is intended or can be made so at a cost not exceeding the value of the equipment in its existing state; in no event shall any such equipment be so stored for a period of more than 60 days if not in condition for safe and efficient performance of its intended function.

(d) REFUSE. In all areas, all waste material, debris, refuse or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. Trash and garbage receptacles must be screened from view from off-the-site and are prohibited in front yards and the setback area of rear and side yards.

(e) LANDSCAPING. Landscaping shall be provided and maintained for all yard areas except those utilized for driveways and off-street parking and shall consist of grass, shrubs and trees suitable for the climatic and soil conditions of the site area.

(f) OFF-STREET PARKING. The following requirements for the Planned Unit Developments supersede anything in this Code to the contrary. For residential uses, off-street parking shall be provided at a minimum ration of 1-1/2 spaces for each dwelling unit except that for instances such as housing projects for the elderly, a ratio of 1:1 may be provided at the discretion of the City Council upon recommendation by the Plan Commission.

(g) SCREENING. Screening shall be required where any off-street parking area contains more than four (4) parking spaces. Such screening shall conform to the spirit of Section 10-1-14.

(h) TRAFFIC CONTROL. The traffic generated by an use shall be channeled and controlled in a manner that will avoid congestion on the public streets, traffic hazards, and excessive traffic through residential areas, particularly truck traffic. Internal traffic shall be so regulated as to ensure a safe and orderly flow.

(i) SCREENING OF ROOF-MOUNTED EQUIPMENT.

(1) Roof-mounted mechanical equipment installed on buildings constructed within the Planned Unit Development District shall be screened from view. This requirement shall be deemed satisfied when all parts of the roof-mounted equipment are not visible from ground level observation or at any point on the property, adjacent property, or from adjacent streets.

(2) Screening required by this Section shall comply with the following:

- a. The screening shall be permanently attached to the building and shall be capable of withstanding all load requirements as outlined in applicable Codes.
- b. The screening shall be constructed with materials that are architecturally compatible with the building. The use of wood, in whole or in part, as a screening materials shall not be considered as being architecturally compatible unless the building is constructed with a wood exterior.
- c. A parapet wall of sufficient height and as an integral part of the building shall be considered as approved screening.

- d. All roof-top screening shall be kept in repair or in a proper state of preservation.
- e. Existing screening which requires major alteration or replacement shall meet the requirements of this Section.

## **SEC. 10-1-43 PLANNED UNIT DEVELOPMENTS; REVIEW OF APPLICATIONS**

(a) REVIEW SCOPE. An application to construct a Planned Unit Development must be reviewed in a manner which is consistent with the procedures set forth in this Section and those procedures required by State Statute.

(b) CONSTITUTION OF REVIEW AUTHORITY. Planned unit development applications shall be subject to review by the City Council based on Plan Commission recommendations and a public hearing.

(c) PRE-APPLICATION CONFERENCE.

(1) A developer desiring to obtain a Conditional Use Permit to construct a Planned Unit Development may request a Pre-Application Conference with the Plan Commission prior to submitting an application for the Conditional Use.

(2) The purpose of this Pre-Application Conference shall be to familiarize both the developer and the Plan Commission with each other's intentions with respect to the Planned Unit Development. Although a Pre-Application Conference shall not be required, this preliminary meeting between the Plan Commission and the developer is desirable since it should help clarify many procedural and policy issues.

(3) The developer shall not be required to present any written or graphic materials at the Pre-Application Conference. The Plan Commission cannot approve a Conditional Use at the Pre-Application Conference.

(d) DEVELOPMENT PROPOSAL.

(1) The written and graphic information specified in this Section must be submitted for the entire proposed project. A copy of the Development Proposal shall remain open to the public during the application process and shall be located in the Zoning Administrator's office.

(2) The purpose of the Development Proposal shall be to provide the Plan Commission with an opportunity for in-depth substantive review of the Planned Unit Development before final designs are developed.

(3) The Development Proposal shall include written and graphic materials.

a. Written materials shall include, but not be limited to, the following:

1. Legal description of the total development parcel proposed for development including exact location and a statement of present and proposed ownership.
2. Statement of development concept, including the planning objectives and the character of the development to be achieved through the Planned Unit Development.
3. Development schedule indicating the appropriate date when construction of the Planned Unit Development can be expected to begin and to be completed, including initiation and completion dates of separate stages of a phased development.
4. Statement of intentions regarding the future selling or leasing of all or portions of the Planned Unit Development, such as land area, dwelling units, and public facilities.
5. The impact of the development on existing City services outside the development.

b. Quantitative data including:

1. Parcel size.

2. Proposed lot coverage of structures.
3. Total amount of usable open space, both private and public.
4. Total number and type of dwelling units by number of bedrooms.
5. Approximate gross residential densities.
6. Number of parking spaces to be provided.
7. Total length of streets to be conveyed to the City government.
8. Total length of streets to be held as private ways within the development.
9. Description of type of other public works to be conveyed to the city government.
10. Number and types of public facilities.

c. Graphic materials shall include, but not be limited to, the following:

1. Map of existing site conditions, including contours, watercourses, flood plains, unique natural features, existing vegetation, existing buildings.
2. Existing and proposed lot lines.
3. Location and size of gross floor area of all existing and proposed buildings, structures, and other improvements including maximum heights and types of dwelling units.
4. Location and size in square feet of all usable open space and areas to be conveyed, dedicated, or reserved as common open spaces and recreation areas.

5. The existing and proposed circulation including off-street parking areas, service areas, loading areas, and all points of access to existing public rights-of-way.
6. Proposed pedestrian circulation system.
7. Existing and proposed utility systems including sanitary sewers, storm sewers, water and gas lines, and utility easements.
8. Landscape plan indicating the treatment of materials used for private and common open spaces.
9. Location of trash and garbage receptacles and type of screening.
10. Proposed treatment of the perimeter of the development, including materials and techniques used such as screens, fences, and walls.

(e) Approval of the development proposal shall be granted by the City Council upon the recommendation of the Plan Commission and following a public hearing where the Development Proposal:

- (1) Conforms with the General Development Controls set forth in this Section.
- (2) Conforms with adopted policy plans or development guidelines for the portion of the City in which the Planned Unit development District is located.
- (3) Provides benefits to the City which outweigh its adverse effects; in making this determination, the Plan Commission shall consider the following:

- a. Quality of site design, including integration of a variety of land uses; building types, and densities; preservation of natural features, compatibility with adjacent land uses, provision and type of open space, provision of other amenities designed to benefit the general public.

- b. Traffic flow and safety.
- c. Adequacy of utilities and other public works facilities.

**SEC. 10-1-44 PLANNED UNIT DEVELOPMENT; FINAL DEVELOPMENT PLAN**

(a) The Final Development Plan shall be submitted to the Zoning Administrator. It shall include all of the previously specified data and in addition, any changes approved by the City Council.

(b) In lieu of completing all of the elements in the development proposal, the City Manager may accept a bond in an amount equal to the estimate costs for completing the project.

**SEC. 10-1-45 PLANNED UNIT DEVELOPMENT; SUBSEQUENT CHANGE OR AN ADDITION TO AN APPROVED PLAN**

(a) Any subsequent change or addition to an approved plan shall first be submitted for recommendation to the Plan Commission. The Plan Commission shall make its recommendation to the City Council. If, in the City Council's opinion, the change or addition is substantial, keeping in mind how substantial is defined below, the City Council shall call for a public hearing on such proposed change or addition. Without limitation to the City Council's right to determine any other substantial change, a change may be construed to be substantial if it results in any of the following:

- (1) An increase in density.
- (2) An increase in traffic congestion.
- (3) Creation of Service Problems.
- (4) Change in project design, architecture, or aesthetics.

## MEMORANDUM

*Department of Public Works*

**TO:** Gregory Buckley, City Manager  
**FROM:** Michael Lewis, Director of Public Works  
**RE:** Blue Heron Condominium Development  
**DATE:** July 16, 1999

Since I was here for this 1992 development, you asked me for a report in light of the letter received from the Blue Heron Condominium Owners Association. Blue Heron was developed under Section 10-1-40 of the Municipal Code dealing with Planned Unit Developments (PUD). PUD's allow for the "opportunity for the construction of quality developments by providing flexible guidelines where strict adherence to zoning codes preclude the use of innovation, but sound development principals."

The City Administration worked very closely with Mr. Jeff Check on this development. I don't ever remember any major disagreements between Mr. Check and the City Administration during the planning process. What the City requires for Planned Unit Developments is very similar to what other communities ask for. Mr. Check was also present at all important meetings with the Plan Commission and City Council during the approval process.

As the attached minutes from the Plan Commission and City Council clearly point out, it was well understood that all infrastructure for the development would be installed and forever maintained by the owners of the development. It makes no difference that ownership may have changed. The conditions for approval of the development were agreed to in 1992 and nothing has changed over the last seven years to warrant any changes.



ITEM NO. 3 - Proposed Planned Unit Development Project, 3600± Block, Riverview Drive, submitted by J. Check and M. Bodart. (See proposed condominium development plan and related materials on file.)

Mr. Check explained their project to the Commissioners. The first phase would include eight buildings (16 units) with each unit containing 1,250± square feet and would take approximately two years to complete. The next two phases would be done in a similar fashion.

Gary Peterson commented about the nice location, but felt that the layout should allow everyone in the project access to the river, not just those units which have river frontage. Mr. Check then explained the "limited common element" planned for this development. This provides for a small area around each building to be set aside for each owner to treat to their own liking for planting flowers, etc. The remainder of the area would belong to the Condominium Association and they in turn would provide access at different points to the river as the members may request.

Gary Peterson then questioned the long term effects as well as maintenance necessary for the road design as submitted on the proposed plan. He was also concerned about the privately owned lift station. He felt that the City should request a right of way and a building setback that would match our normal requirements, and that the City should own the lift station.

At the request of Commissioner Dodge, Mr. Check explained the dollar amounts making up the economic feasibility of the proposed project.

 City Engineer Michael Lewis then asked Mr. Check who would be responsible for the maintenance of the lift station and roadway, including plowing, sanding, etc. Mr. Check replied that it was their intention to privately contract for those items, with it being the Condominium Association's responsibility to see that repairs and/or maintenance were accomplished in a timely manner.

The question of refuse collection for this project had not been addressed, but would be resolved to the interests of the City. Mr. Lewis questioned the feasibility of parking on the street, noting that it is narrower than typically found in new areas in Two Rivers. Mr. Check mentioned that the "Association" would probably not allow parking in the street.

 Discussion then centered around the aforementioned potential problems with the street design especially through the fall

and winter months as well as the potential for the lift station malfunctioning and requiring immediate attention. Again Mr. Check reassured those present that the Condominium Association would accept full responsibility for any and all repairs and maintenance within the proposed Planned Unit Development.

Chairman Nenonen then asked Mr. Check if there were any condominium regulations drawn up for this project. He replied that this issue would be addressed after getting approval from the City of the preliminary plan. Mr. Check would also provide a landscaping plan including grading details in relation to the river.

Mr. Nenonen then pointed out that the City of Two Rivers would be responsible for paving Fairview Drive from Riverview Drive west to the beginning of the P.U.D. Of the six lots involved, two are privately owned and one would be City owned. The three on the north side of the street and presently belonging to the county would share the cost of the improvements via forced special assessment.

Commissioner Ellenor Mir asked Mr. Check what type of market assessment his firm undertook to necessitate this type of development. He commented that the successfulness of similar buildings already sold in Manitowoc, some of the new owners being previous Two Rivers residents, dictated the need for this project.

With no further discussion,

Motion was made by Kenneth Dodge and seconded by Robert Mattern that the Plan Commission accept the Preliminary Plan subject to all primary concerns being satisfied by the appropriate departments, and a copy of the Condominium Declaration delivered to the City Manager prior to submission of the Planned Unit Development and final plan to the City Council for their approval.

Motion carried, no dissenting vote.

ITEM NO. 4 - Proposed annexation of N.A.P./Woodland Dunes properties in vicinity of STH 310. (See petition and site map on file.)

Chairman Nenonen explained that the annexation would enable them to hook up to City sewer and water subject to a connection fee. The agreement would also allow for Woodland Dunes to do the trenching and make the necessary connections as soon as possible to avoid working in hard frost. Use of the utilities would not be permitted until annexation was complete, which is anticipated to be January 1992.

MINUTES  
CITY OF TWO RIVERS PLAN COMMISSION

MONDAY, JANUARY 27, 1992

The meeting was called to order by City Manager Stephen Nenonen at 7:00 PM in the Council Chambers, City Hall.

Present were Commissioners Robert Fay, Robert Mattern David DeRosier, Ellenor Mir, City Engineer Michael Lewis, Secretary Marvin Now and City Manager and Chairman Stephen Nenonen.

Absent and excused: Kenneth Dodge

Also present: Associate Planner Gary Peterson, City Councilman John Monka, Philip Plansky, Jeffrey Check, Myron Bodart and one unidentified observer.

A quorum being present, business was in order. The following items were discussed and action was taken as hereinafter noted.

ITEM NO. 1 - Proposed redivision combining properties at 1906-13th Street submitted by Donna J. Ward, et al. (See request and sketch on file.)

The proposal to combine the two parcels was reviewed and discussed. Gary Peterson recommended for approval.

Motion was made by Michael Lewis and seconded by David DeRosier that the Plan Commission recommend to the City Council for approval of the redivision combining Parcels No. 101-003-017-3 and 101-003-018-2 as proposed by Donna J. Ward, et al.

Motion carried, no dissenting vote.

ITEM NO. 2 - Review and recommendations re: Planned Unit Development project north of lagoon submitted by Bodart, Check, Olson and Borkovetz. (See correspondence and plans on file, also minutes of November 25, 1991.)

The proposed development was reviewed and discussed. Gary Peterson stated to the effect that he still thinks that a water access would make the project a better project. He pointed out, however, the need for housing in the community and recommended for approval.

Further discussion centered on the City policy concerning City-owned land having water frontage, typically street ends. It was pointed out, however, that the current proposal would exchange other waterfront properties for City properties having water frontage. City Engineer Michael Lewis indicated that the plans for the street improvements and storm drainage were acceptable with the exception that additional detailed plans for the sanitary lift station were forthcoming.

It was noted that the plan review check list utilized by the staff had been completed, all required documents have been received and are in order and that several recommendations had been submitted for consideration as conditions to be included on the Conditional Use Permit.

Following the discussion,

Motion was made by Michael Lewis and seconded by Robert Mattern that the Plan Commission recommend for approval of the proposed Blue Heron Planned Unit Development Project Conditional Use Permit subject to public hearing and further subject to the following conditions:

1. The roadway, being of substandard design and unacceptable for public street purposes, shall be and shall remain a private road and all maintenance thereof shall be the sole responsibility of the owner.
2. Utilities including water, storm sewer and sanitary sewer systems, except the sanitary lift station, shall be private systems installed and maintained entirely by the owner.
3. The lift station shall be constructed at the developer's expense, plans and specifications shall be subject to City approval and final acceptance by the City will only occur following completion and final inspection, thereafter, maintenance of said lift station shall be performed by the City.
4. Utility easements across Lots 21, 22 and 23, Block 2, Riverview Terrace Subdivision shall be obtained from the owners by the project developer.
5. Lands within utility easement boundaries shall be kept free of trees, shrubs and other obstacles.
6. The electrical distribution system shall initially be installed for both Phases I and II of the project to help insure continuity of service in the event of a failure.
7. Utilities shall be installed underground according to City standards.
8. In exchange for the public access properties being conveyed to the developer, Lots 20 and 21, Block 2, Riverview Terrace Subdivision, will be conveyed by means of quit claim deed to the City.
9. The condominium association will be responsible for delinquent uncollectable utility bills.

PLAN COMMISSION MINUTES, JANUARY 27, 1992

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Motion carried, David DeRosier voted present.

ITEM NO. 3 - Recommendations re: Vacation of and exchange of public access lands at and adjacent to Fairview Drive for Lots 20 and 21, Block 2, Riverview Terrace Subdivision, including amendments to the Official Street Map. (See Agenda Item No. 2 above.)

Motion was made by Ellenor Mir and seconded by Michael Lewis that the Plan Commission recommend to the City Council for vacation of and exchange of public lands at and adjacent to Fairview Drive for Lots 20 and 21, Block 2, Riverview Terrace Subdivision, and that the Official Street Map be amended accordingly, all subject to public hearing.

Motion carried, David DeRosier voted present.

ITEM NO. 4 - Recommendation re: Petition for vacating remaining 30 foot Columbus Street right of way lying south of 42nd Street submitted by adjacent property owners Plansky, Redeker and Baugniet. (See petition and sketch on file.)

The proposed vacating of Columbus Street was reviewed and discussed. Mr. Plansky advised the Commissioners that because of pedestrian traffic utilizing the land in question he desires to discontinue the walkway and plant the area to improve its appearance. Gary Peterson stated to the effect that if there is in fact no future public use for the land in question, vacation appears to be in order. Michael Lewis indicated that maintenance of the existing underground utility can be done in the future by means of the easement and that there is no need to retain the land. He did note, however, that the curb and apron for the street intersection are there and should be removed, and he further indicated that public sidewalk would be appropriate. It also was noted that this matter had been reviewed by the Park and Cemetery Department with the concensus that there is no future need for this public access land.

After further discussion,

Motion was made by David DeRosier and seconded by Robert Fay that the Plan Commission recommend to the City Council for vacating the remaining 30 feet of Columbus Street right of way extending south of 42nd Street as petitioned for by all adjacent property owners subject to public hearing, and that public sidewalk be ordered in in spring.

Motion carried, no dissenting vote.

ITEM NO. 5 - Recommendation to update Municipal District Map for 1992. (See copy on file.)

**RESOLUTION** (Doc. #19946)

*Authorizing a  
Conditional Use  
Permit for a  
Planned Unit  
Development  
Project (Blue  
Heron  
Condominiums)  
on East Twin  
River*

**RESOLUTION**

*Authorizing a Conditional Use Permit For a  
Planned Unit Development Project north of the  
Lagoon on the East Twin River, and for the  
exchange of public access lands for waterfront  
lands of equal value in Riverview Terrace  
Subdivision Two Rivers, Wisconsin.*

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**WHEREAS**, a public hearing was conducted on March 2, 1992, by the City Council of the City of Two Rivers, wherein testimony was received from all interested parties; and

**WHEREAS**, it does not appear that the proposed Conditional Use Permits for a Planned Unit Development and the exchange of public lands is contrary to the spirit and intent of the Municipal Code; and

**WHEREAS**, it has been recommended by the Plan Commission,

**NOW, THEREFORE, BE IT HEREBY RESOLVED**, that the Council of the City of Two Rivers does hereby authorize a Conditional Use Permit for a Planned Unit Development consisting of 28 buildings each containing two condominium living units to be located north of the lagoon in Riverview Terrace Subdivision as shown on the plans entitled "Proposed Blue Heron Condominiums," and said development project to be constructed in three phases, and,

**BE IT FURTHER HEREBY RESOLVED** that the Council of the City of Two Rivers does hereby authorize the exchange of public lands including the vacated portion of the street right of way for Fairview Drive extended, lying between Lots 4, 5, 6 and 7, Block 2, and Lots 24, 25, 26, 27 and 28, Block 1, Riverview Terrace Subdivision, together with other public lands located in the NE 1/4 of the NW 1/4, of Section 36, Town 20 North, Range 24 East, and the SE 1/4 of the SW 1/4, Section 25, Town 20 North, Range 24 East, extending westward from the west property lines of Lot 7, Block 2, and Lot 28, Block 1, of the Riverview Terrace Subdivision, in exchange for which the City will receive title to Lots 20 and 21, Block 1, Riverview Terrace Subdivision.

**RESOLVED FURTHER**, that this resolution shall take effect upon compliance with all specified conditions.

Dated March 2, 1992.

TIM W. TOMCHEK  
COUNCILMEMBER

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vo  
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Bc

STEPHEN T. NENONEN  
CITY MANAGER

Seeing no one else wishing to address the Council, and after considerable discussion, Mr. Ashenbrenner closed the public hearing. Councilmember Tomchek made a motion to waive reading and adopt the ordinance and resolution, and to redivide and combine into one parcel, subject to the following conditions as developed by the Plan Commission at their January 27, 1992, meeting:

- a. The roadway, being of substandard design and unacceptable for public street purposes, shall be and shall remain a private road and all maintenance thereof shall be the sole responsibility of the owner.
- b. Utilities including water, storm sewer, and sanitary sewer systems, except the sanitary lift station, shall be private systems installed and maintained entirely by the owner.
- c. The lift station shall be constructed at the developer's expense, plans and specifications shall be subject to City approval and final acceptance by the City will only occur following completion and final inspection, thereafter, maintenance of said lift station shall be performed by the City.
- d. Lands within utility easement boundaries shall be kept free of trees, shrubs and other obstacles.
- e. The electrical distribution system shall initially be installed for both Phases I and II of the project to help insure continuity of service in the event of a failure.
- f. Utilities shall be installed underground according to City standards.
- g. In exchange for the public access properties being conveyed to the developer, Lots 20 and 21, Block 2, Riverview Terrace Subdivision, will be conveyed by means of quit claim deed to the City.
- h. The condominium association will be responsible for delinquent uncollectible utility bills.

*Public Hearing Closed*

*Conditions of  
Conditional Use  
Permit for  
Planned United  
Development*

Councilmember Rohrer seconded Mr. Tomchek's motion. Upon a roll call vote - Ayes: (7) Gregory Erickson, John Monka, Thomas Mulhaney, Charles Rohrer, James Taddy, Tim Tomchek, and Kenneth Dodge; Noes: (0) None. Motion declared carried. Councilmembers Tomaszewski and Ashenbrenner refrained from voting.

*Adopted*

Mr. Nenonen presented to the City Council the following applications for Beverage Operator Licenses:

*Beverage Operator  
L i c e n s e  
Applications*

- a. Kust, Tina M., 4600 Columbus Street
- b. Osmunson, Wendi A., 2207 East River Street
- c. Slater, Lynne M., 2111 Crystal Spring Road
- d. Smith, Jodi L., 1608 Emmet Street

**MEMORANDUM****Customer Service Department**

MEMO TO: Finance Director  
cc: City Manager  
FROM: Customer Service Supervisor  
SUBJECT: Public and Private Fire Protection Charges

In response to your request for information regarding the public fire protection and private fire protection charges, I offer the following:

**PRIVATE FIRE PROTECTION (Rate Schedule Upf-1):**

As established by the Public Service Commission of Wisconsin's rate file for the Two Rivers Water Utility, "this service shall consist of unmetered connections to the main for the purpose of supplying water to private fire protection systems such as automatic sprinkler systems, standpipes, (where same are connected permanently or continuously to the mains), and private hydrants."

It should be noted that the monthly demand charges for private fire protection service are dependent on the size of the connection to the main. Our current rates for private fire protection service, as established by the Public Service Commission of Wisconsin, are as follows:

2" Connection	\$ 6.00
3" Connection	\$ 11.50
4" Connection	\$ 19.00
6" Connection	\$ 38.00
8" Connection	\$ 60.00
10" Connection	\$ 90.00
12" Connection	\$132.00

Presently there are 35 utility accounts that are being billed for the private fire protection service. For your convenience, attached please find a listing of these 35 accounts showing the customer type of service, utility account number and the account name.

As can be seen from this listing, Blue Heron Partners has an active private fire protection account for the Blue Heron area. Their present charge is \$38.00 per month. An additional account for the Blue Heron Partners is in the process of being set up for the connection for the Deer Brook area with a charge of \$38.00 per month.

It should also be noted that 3 other private fire protection accounts are being set up to include a portion of Mahogany Run, Lakeview Terrace Apartments, and Lakeshore Park Apartments.

**PUBLIC FIRE PROTECTION CHARGES (Rate Schedule F-1):**

As you know, with our last full rate case before the Public Service Commission of Wisconsin, the Two Rivers Water Utility was authorized to bill utility customers for public fire protection service. This service began for all service rendered on or after January 1, 1997.

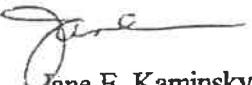
As established by the Public Service Commission of Wisconsin's rate file for the Two Rivers Water Utility, "under Wisconsin Statutes, s.196.03(3)(b), the municipality has chosen to have the utility bill the retail general service customers for public fire protection service. This service shall include the use of hydrants for fire protection service only and such quantities of water as may be demanded for the purpose of extinguishing fires within the service area. This service shall also include water used for testing equipment and training personnel.

It should be noted that our public fire protection charges are based on meter size and were determined by the Public Service Commission of Wisconsin, with all property owners served by the water system, including tax exempt properties being billed monthly for this service. The current monthly public fire protection charges are as follows:

5/8" Meter	\$ 4.43	3" Meter	\$ 67.98
3/4" Meter	\$ 4.43	4" Meter	\$114.33
1" Meter	\$11.33	6" Meter	\$225.57
1 1/4" Meter	\$16.48	8" Meter	\$358.44
1 1/2" Meter	\$22.66	10" Meter	\$537.66
2" Meter	\$37.08	12" Meter	\$713.79

It should be noted that individuals living in the Blue Heron area are being billed just like any other residence in Two Rivers for their municipal electric and water usages – meaning that as active water utility customers the public fire protection charge goes along with the water meter that is in service.

If you should have any other questions regarding the billings for private fire protection and/or public fire protection service, please do not hesitate to ask.

  
Jane E. Kaminsky  
Customer Service Supervisor

07/19/99 13:03:12

PAGE 1

CUSTOMER TYPE #06 ACCOUNT #

TENANT #

TENANT FIRST NAME

ACCOUNT STATUS

PPP	010025000	0	US COAST GUARD STATION	A
PPP	030620000	1	BILL'S PICK N SAVE	A
PPP	040470500	0	TR COMMUNITY HOSPITAL	A
PPP	040472900	0	TR COMMUNITY HOSPITAL	A
PPP	040475500	0	HAMILTON MEMORIAL HOME	A
PPP	052540000	0	BLUE HERON PARTNERS	A
PPP	060021000	0	NATIONAL GUARD#MAD4065 & 2071	A
PPP	100020000	0	EGGERS PLYWOOD COMPANY	A
PPP	100540000	1	KULPA JR	A
PPP	102610000	0	B & B METALS	A
PPP	110790000	3	WHITE HORSE LLC	A
PPP	120140000	0	EVANS INC	A
PPP	161575995	0	MUELLER MANOR	A
PPP	170205500	0	CARRON NET	A
PPP	171381000	1	NEMECK'S SENTRY FOODS #395	A
PPP	192120000	0	METAL WARE CORPORATION	A
PPP	200152000	0	EGGERS - WEST PLANT	A
PPP	201245500	0	WE&R BEDDING	A
PPP	201421000	0	ESTRAN CORPORATION	A
PPP	201432300	0	OMEGA MANUFACTURING COMPANY	A
PPP	201445000	0	IRONWOOD PLASTICS	A
PPP	201460000	1	CLASSIC MODULAR SYS INC	A
PPP	271130000	2	HAMILTON SCIENTIFIC	A
PPP	271440000	0	CRESCENT WOOLEN MILL	A
PPP	271480000	0	SCHWARTZ MFG CO	A
PPP	272425300	1	TWIN CITIES MARINA	A
PPP	272460000	0	TAHLENBERG BROS CO	A
PPP	400140100	0	WESTERIA HAUS	A
PPP	450005000	1	HAMILTON SCIENTIFIC	A
PPP	450006000	0	PARAGON ELECTRIC COMPANY	A
PPP	450246000	1	CARNAHAN CORPORATION	A
PPP	461681000	2	TR COMMUNITY HOSPITAL	A
PPP	700525000	0	CITY HALL	A
PPP	700801000	0	WASHINGTON HIGH SCHOOL	A
PPP	701180000	0	TR W&L DEPT	A

\* \* \* END OF REPORT \* \* \*



26b  
MAHOGANY RUN  
Office of the City Manager  
1717 East Park Street  
Post Office Box 87  
Two Rivers WI 54241-0087  
Telephone ..... 920/793-5532  
FAX ..... 920/793-5563

December 12, 2000

Mr. Bill Lane  
Mahogany Run Condominium Association  
3837 Riverview Lane  
Two Rivers WI 54241

RE: Agreement Pertaining to City Maintenance of Water and Sewer Mains at Mahogany Run  
Condominium Project

Dear Bill:

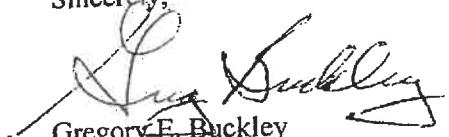
Enclosed for your records is a copy of the above-referenced agreement, which was approved by the Two Rivers City Council on December 4, 2000 and has been executed on behalf of the City of Two Rivers by myself and Acting City Clerk Jane Kaminsky.

Jetting of the sanitary sewer mains within the development will be completed sometime this winter, and scheduled annually thereafter. Hydrant flushing will be scheduled by the City's Water Department, and will commence in the Spring/Summer of 2001.

By copy of this letter, I am advising the City departments responsible for these services to incorporate this routine maintenance work at Mahogany Run into their maintenance schedules for 2001 and future years.

As always, feel free to contact me with any questions or concerns.

Sincerely,

  
Gregory E. Buckley  
City Manager

cc: Bill Scola, Acting Director of Public Works  
Bill Pappathopoulos, Utilities Director  
Jane Kaminsky, Acting City Clerk

RECEIVED  
NOV 30 2000  
OFFICE OF THE CITY MANAGER  
TWO RIVERS, WI

AGREEMENT FOR PROVISION OF UTILITY SERVICES  
AND WAIVER AND RELEASE OF CLAIMS

Agreement entered into as of the 24 day of November, 2000, by and between the City of Two Rivers, Wisconsin, a municipal corporation, ("the City") and Mahogany Run Condominium Association, a Wisconsin Corp., with its principal place of business at 3837 Riverview, Dr. Two Rivers, Wisconsin 54241 ("the Association").

WHEREAS, the City Council of the City has promulgated a policy under which the City provides certain maintenance services to privately owned water and sewer facilities of condominiums and other developments, subject to certain terms and conditions, including a waiver and release of liability against the City; and

WHEREAS, the Association desires to enter into an agreement for provision of such services by the City, subject to the terms and conditions of this Agreement;

NOW, THEREFORE, it is hereby agreed by and between the parties hereto as follows:

1. The Association may request, and the City shall provide, routine flushing services to water mains and sewer mains owned by the Association, at the Mahogany Run Condominium Development, described in Exhibit A attached hereto and made a part hereof, on the same terms and in the same manner as the City provides such services for publically owned water and sewer mains in other areas of the City.

2. In addition, the City shall provide emergency services in the event the sewer mains in the Mahogany Run Condominium development become blocked.

3. The Association shall grant to the City an easement providing the City with reasonable access to and from the condominium development and its water and sewer facilities as necessary for the City to provide the services requested.

4. If such services are provided by the City, the Association, for itself, its heirs, personal and legal representatives, successors and assigns, including any condominium unit owners, waives and releases any and all claims, damages, causes of action, or liabilities of any nature whatsoever, known or unknown, ("the claims") against the City, its officers, officials, agents and employees arising therefrom, relating to or arising from the provision of such services, except only such claims as arise from the gross negligence or intentional act of an employee of the City.

5. This provision shall not be deemed a waiver of the limitation of amounts recoverable against the City, its officers, officials, agents and employees provided under §893.80(3) of the Wisconsin Statutes or other applicable law, nor shall it be deemed a waiver of the City's ability to claim immunity as provided in §893.80(4) of the Wisconsin Statutes, or other applicable law. In addition, this provision does not constitute a waiver of the requirements imposed by §893.80 of the

T.R. - Mahogany Run - Agree. Prov. of Utility Ser..WPD

Wisconsin Statues, or any other applicable law, for bringing claims against the City, its officers, officials, agents or employees.

6. The Association agrees to obtain and maintain in full force and effect at all times insurance providing coverage against any claims of the kind described in Section 4 hereof, if available, on terms and with policy limits and insurers acceptable to the City. The City shall not be liable under this Agreement for any damages covered by such insurance.

7. The invalidity of any provision of this Agreement or portion of a provision shall not affect the validity of any other portion of this Agreement; or the remaining portion of the applicable provision.

8. The Association agrees that it shall comply with all applicable state, federal and local laws, rules and regulations in the construction, operation and maintenance of its sewer and water facilities.

9. Except as specifically set forth herein, nothing herein expressed or implied is intended or shall be construed to confer upon or give to any other person or entity other than the parties hereto and their successors and assigns any rights or remedies under or by reason of this Agreement. Neither party to this Agreement shall be deemed to be the agent of the other, except as expressly stated herein.

10. The Association may not assign its rights or obligation under this Agreement without the written consent of the City.

11. This Agreement shall bind and inure to the benefit of the parties hereto, their heirs, personal and legal representatives, successors and assigns.

Dated: Nov. 24, 2000

CITY OF TWO RIVERS

By: Gregory C. Schilder

By: Gene S. Kamiske

MAHOGANY RUN HOMEOWNERS  
CONDOMINIUM ASSOCIATION, INC

By: William T. Lane  
Agent - Developer

**RESOLUTION  
REGARDING ROUTINE WATER AND SEWER MAIN  
MAINTENANCE IN PUD PROJECTS DEVELOPED  
AS RESIDENTIAL CONDOMINIUMS**

**WHEREAS**, the City of Two Rivers has placed a high priority on the development of new owner-occupied housing within the community; and

**WHEREAS**, a significant amount of the new, owner-occupied residential development that has occurred in the community in recent years has been in residential planned unit developments (PUD's), where housing units constructed by a developer are then sold as residential condominiums; and

**WHEREAS**, such PUD's represent a more flexible approach to zoning and site planning, an approach facilitates the development of sites that might not be economically developable, employing traditional zoning and site planning methods; and

**WHEREAS**, the roadways and utility infrastructure for such PUD's are typically installed by the developer, with the developer and his successors in the condominium association responsible for the routine maintenance, repair and replacement (as necessary) of such infrastructure; and

**WHEREAS**, the individual condominium owners in such developments pay water and sewer bills based on the same rate structure as other homeowners in the community; and

**WHEREAS**, the water and sewer mains in these developments must be constructed in accordance with the City's design standards, with the design plans for such mains reviewed and approved by the City Engineer prior to their installation; and

**WHEREAS**, while the private owners' responsibility for routine maintenance of both water and sewer mains in such developments has been clearly spelled out in the Developer Agreements required by the City's PUD ordinance, and is communicated to condominium purchasers in the covenants of the condominium associations, billing of such condominium associations for water main flushing and sewer main jetting by the City has been a cause for concern and dissatisfaction to the residents of these developments;

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Two Rivers does hereby adopt a policy of providing the services of flushing water mains and jetting sanitary sewer mains in such developments, based on the same methodology employed in flushing and jetting such mains owned by the City, and for responding to complaints of blocked sewer mains on an emergency basis, without charge to the owners of such mains, provided:

- The developer and /or condominium association as successor to the developer enters into an agreement with the City, whereby the City is indemnified and held harmless for claims arising as a result of its flushing and jetting activities;
- Such agreement also provides for the developer and/or condominium association to indemnify and hold the City harmless for damages as the result of any failure of the development's private water or sewer system, including sanitary sewer backups;
- The City is granted an easement providing access to the private property in question, to conduct such flushing and jetting activities; and

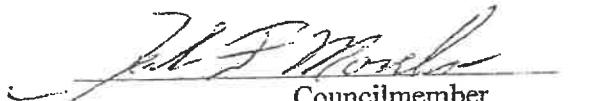
**BE IT FURTHER RESOLVED**, that the City shall offer such services to the two existing residential PUD/residential condominium projects now in existence in the City--Blue Heron Condominiums and Mahogany Run Condominiums, subject to the City reaching satisfactory written agreements with the owners of those developments, addressing those terms identified above; and

**BE IT FURTHER RESOLVED**, that the City shall offer such services to other, future PUD/residential condominium projects, subject to reaching similar agreements with their owners; and

**BE IT FURTHER RESOLVED**, that such agreements shall be subject to approval by the City Council; and

**BE IT FURTHER RESOLVED**, any rodding and jetting services provided to such developments by the City prior to the effective date of any such agreement shall remain the financial responsibility of the private owners, based on the development agreements entered into between the City and the developers.

Dated this 17<sup>th</sup> day of July, 2000

  
John F. Morello  
Councilmember

  
Gregory E. Buckley  
City Manager

705684

DISCLOSURE MATERIALS FOR  
BLUE HERON CONDOMINIUMS,  
AN EXPANDABLE CONDOMINIUM

LOCATED IN TWO RIVERS, WISCONSIN

DECLARANT:  
BLUE HERON Partners  
A Limited Partnership  
2500 Washington Street  
Manitowoc, WI 54220

RECEIVED FOR RECORD

VOL 996 454

1992 SEP 30 PM 1:53  
CIRCUIT COURT OF WIS.  
CLERK'S OFFICE  
MANITOWOC, WI

1. THESE ARE THE LEGAL DOCUMENTS COVERING YOUR RIGHTS AND RESPONSIBILITIES AS A CONDOMINIUM OWNER. IF YOU DO NOT UNDERSTAND ANY PROVISIONS CONTAINED IN THEM YOU SHOULD OBTAIN PROFESSIONAL ADVICE.
2. THESE DISCLOSURE MATERIALS GIVEN TO YOU AS REQUIRED BY LAW MAY BE RELIED UPON AS CORRECT AND BINDING. ORAL STATEMENTS MAY NOT BE LEGALLY BINDING.
3. YOU MAY AT ANY TIME WITHIN 5 BUSINESS DAYS FOLLOWING RECEIPT OF THESE DOCUMENTS, OR FOLLOWING NOTICE OF ANY MATERIAL CHANGES IN THESE DOCUMENTS, CANCEL IN WRITING THE CONTRACT OF SALE AND RECEIVE A FULL REFUND OF ANY DEPOSITS MADE.

CONDOMINIUM DECLARATION

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## CONDOMINIUM DECLARATIONS

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CONDOMINIUM DECLARATION  
OF  
CONDITIONS, COVENANTS, RESTRICTIONS, AND EASEMENTS  
FOR  
BLUE HERON CONDOMINIUMS,  
AN EXPANDABLE CONDOMINIUM

This Declaration is made pursuant to the Unit Ownership Act of the State of Wisconsin, Chapter 703 of the Wisconsin Statutes (hereinafter sometimes referred to as "the Act"), this 17th day of July, 1992 by BLUE HERON CONDOMINIUMS, AN EXPANDABLE CONDOMINIUM, BLUE HERON Partners hereinafter referred to as "Declarant."

1. Statement of Declaration

The purpose of the Declaration is to submit the land hereinafter described and the improvements constructed or to be constructed thereon to the condominium form of ownership in the manner provided by the Act and by this Declaration.

Declarant hereby declares that they are the sole owners of the real property described in Section 2.1 hereof, together with all buildings and improvements thereon (hereinafter referred to as "the property") which is hereby submitted to the condominium form of use and ownership as provided in the Act and encumbered, used improved and in all respects otherwise affected subject to the provisions, conditions, covenants, restrictions and easements of this Declaration and the Act. All provisions herein shall be deemed to run with the land and shall continue benefits and burdens to the Declarant, their successors and assigns, and to all parties hereafter having any interest in the property.

2. Description of Development.

2.1 Name

The real estate as described in Section 2.4 together with all buildings and improvements located or to be located thereon shall be known as "BLUE HERON CONDOMINIUMS, AN EXPANDABLE CONDOMINIUM."

2.2 Address

The addresses of the condominiums are:

1615, 1617, 1620, 1621, 1622, 1623, 1700, 1702, 1703,  
1705, 1706, 1708, 1709, 1711, 1714, 1716, 1720, 1721, 1722, 1723,  
1724, 1726 Blue Heron Drive in Two Rivers, Wisconsin.

## 2.3 Expanding Condominium

The Declarant reserves the right to expand this condominium development as set forth herein. The right of expansion is reserved by the Declarant pursuant to Wisconsin Statute Sec. 703.26 for a period of 10 years from the date of the recording of this Declaration.

## 2.4 Description

The real estate described on Exhibit D attached hereto is subject to the provisions of this Declaration as Phase I.

## 2.5 Roadway Easement

Declarant grants and declares a non-exclusive roadway easement for ingress and egress purposes only, said easement to be appurtenant to each of the units of Blue Heron Condominiums and for the benefit of the unit owners thereof, their tenants, servants, visitors, heirs, successors and assigns over and across the following described tract:

A tract of land located in the NW $\frac{1}{4}$  of the NE $\frac{1}{4}$  and the NE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 36, T. 20 N., R. 24E., described as follows:

Commencing at the NE corner of said Section 36; thence S. 1° 52' 30" E. along the centerline of S.T.H. 42, 564.70 feet; thence continue along said centerline S. 0° 44' 30" E., 411.46 feet; thence S. 87° 51' W. along the North line of Charles Sayers Subdivision No. 4 (centerline of North Ave.) 1980.86 feet to the centerline of Riverview Drive; thence N. 14° 40' W. along said centerline 9.51 feet; thence continue along said centerline N. 12° 26' 30" W., 686.20 feet; thence S. 87° 45' W., 144.60 feet; thence S. 79° 32' 15" W., 152.65 feet to the Northwest corner of Lot 3, Block 2 of Riverview Terrace Subdivision; thence S. 08° 46' 15" E. along the West line of said Lot 3, 132.16 feet to the Southwest corner of said Lot 3; thence S. 10° 56' 30" E., 14.00 feet to the point of real beginning; thence continue S. 10° 56' 30" E. 32.00 feet to a point on a 389.20 foot radius curve to the right; thence Northwesterly along the arc of said curve, 203.78 feet (chord N. 85° 56' 30" W., 201.46 feet) to the point of curvature of a 615.38 foot radius curve to the left; thence Northwesterly along the arc of said curve, 193.33 feet (chord N. 79° 56' 30" W., 192.53 feet) thence N. 88° 56' 30" W., 63.00 feet to the point of curvature of a 169.98 foot radius curve to the right; thence Northwesterly along the arc of said curve, 195.80 feet (chord N. 55° 56' 30" W., 185.16 feet) thence N. 22° 56' 30" W., 253.26 feet to the point of curvature of a 25 foot radius curve to the left; thence Northwesterly along the arc of said curve, 23.62 feet (chord N. 50° 00' 50" W., 22.76 feet) to the point of curvature of a 45 foot radius curve to the right; thence Northeasterly along the arc of said curve, 172.42 feet (chord N. 32° 40' 45" E., 84.70 feet) to the point of a curvature of a 25 foot radius curve to the left; thence Southeasterly along the arc of said curve, 23.62 feet (chord S. 64° 37' 40" E., 22.76 feet);

thence N. 88° 18' 00" E., 51.94 feet; thence S. 03° 14' 00" E., 32.00 feet; thence S. 88° 18' 00" W., 49.62 feet to the point of curvature of a 25 foot radius curve to the left; thence southeasterly along the arc of said curve, 48.54 feet (chord S. 32° 40' 45" W., 41.27 feet) thence S. 22° 56' 30" E., 250.07 feet to the point of curvature of a 137.98 foot radius curve to the left; thence southeasterly along the arc of said curve, 158.94 feet (chord S. 55° 56' 30" E., 150.30 feet) thence S. 88° 56' 30" E., 63.00 feet to the point of curvature of a 647.38 foot radius curve to the right; thence southeasterly along the arc of said curve, 203.38 feet (chord S. 79° 56' 30" E., 202.55 feet) to the point of curvature of a 357.20 foot radius curve to the left; thence southeasterly along the arc of said curve, 187.03 feet (chord S. 85° 56' 30" E., 184.90 feet) to the point of real beginning.

Said tract contains 26,069 square feet (0.60 acres) of land.

The roadway is a common element and all costs and expenses associated with its repair, replacement and maintenance shall be the responsibility of the BLUE HERON CONDOMINIUM, AN EXPANDABLE CONDOMINIUM Owners Association, Ltd.

#### 2.6 Development Plan

Phase I of the Blue Heron Condominium shall include eleven (11) buildings with each of said buildings containing two (2) units. Phase II of Blue Heron Condominium shall include ten (10) buildings with each of said buildings containing two (2) units. Phase III of Blue Heron Condominium shall include seven (7) buildings with each of said buildings containing one (1) or two (2) units.

A maximum total of fifty-six (56) units located in twenty-eight (28) buildings with one or two units per building are planned for the project which will be developed in three (3) phases as described herein.

Each phase may be developed on the following described parcels of land, any part of which shall not be subject to the provisions of the Declaration until the description of said parcel or parcels is contained in Section 2.4 by amendment of this Declaration for the purpose of expansion. The description of Phases II and III which may be added to the development are set forth on Exhibits E and F.

#### 2.7 Special Conditions

Utilities, including by way of illustration but not limitation, water, storm sewers, and sanitary sewers (excluding a sanitary sewer lift station) servicing the units planned in this condominium development will be private systems installed by the Declarant. All utilities servicing this condominium development shall be installed underground and shall be subject to the City of Two Rivers standards for same. Declarant intends to install the necessary electrical distribution system for both Phases I and III so as to

allow for continuity of service. Each unit owner is responsible through the Association for prorata cost of maintaining and repairing said utilities. The Association will properly meter each unit to determine proper billing for such utilities.

The association shall be fiscally responsible for any delinquent uncollectible utility bills and an appropriate reserve for same may be created by the Association for such delinquencies.

Recreational vehicles, equipment, and accessories of any type or kind, including by way of illustration but not limitation, boats, motors, jet skis, snowmobiles, all terrain vehicles, motorcycles, trailers, camper trailers and mobile homes and trucks over one (1) ton and derelict cars or trucks shall not be permitted on either the common or limited common areas of Blue Heron Condominiums for more than twenty-four (24) consecutive hours. Parking in roadway (as described in 2.5 above) is expressly prohibited.

Each unit owner shall be responsible to keep their exterior light fixtures on their garage in working order, including the photoeye which controls them. A 60 watt bulb or equivalent shall be used in each fixture. This shall be at the unit owners expense.

### 3. Description of Buildings

The buildings will have basements and will be one (1) story in height and will be of wood frame construction. Complete construction details are contained in the working plans and drawings available for inspection at the office of the Declarant. The buildings are to be located on the real estate as indicated on the Plat attached hereto and made a part hereof. The units are fully described in the building and floor plans contained in the Plat. Declarant reserved the rights to change the layout and dimensions of the building and units as shown on the Plat which are not fully constructed provided that such changes shall not substantially alter the nature and quality of the buildings and units. Declarant shall have the right to amend this Declaration at their sole discretion for the purpose of recording a plat or survey or plans depicting any changes of the layout, location, unit number, and dimensions of the buildings and units as finally located and erected and any such amendment shall be recorded in the office of the Register of Deeds for Manitowoc County, Wisconsin.

### 4. Number and Identification of Units

#### 4.1 Number

There shall be a maximum total of fifty-six (56) units in the BLUE HERON CONDOMINIUMS, AN EXPANDABLE CONDOMINIUM, upon completion of all three phases.

#### 4.2 Identification

A unit is that part of a building intended for individual, private use, comprised of one or more cubicals of air at one or more levels of space having outer boundaries formed by the interior surfaces of the perimeter walls, floors, ceilings, windows, window frames, doors and door frames of the building and floor plans contained in the Plat together with all fixtures and improvements therein contained.

The units are designed by identifying numbers, as stated above, and their location, approximate area, number of rooms, limited common elements to which the units have access and further details identifying and outlining the units are as set forth in the Plat and described and explained hereunder.

#### 5. Common Elements and Facilities

The common elements and facilities shall consist of all of BLUE HERON CONDOMINIUMS, AN EXPANDABLE CONDOMINIUM, improvements and appurtenances except the individual units as defined hereunder including without limitation, the land on which the building or buildings are located, bearing walls, floors, and ceilings (except the interior surfaces thereof, which form the outer boundaries of a unit), roofs, foundations, entrances and exits, pipes, ducts, electrical wiring and conduits, public utility lines, water and sewer laterals, outside walls, girders, beams and supports, structural parts of the buildings, the walks, driveways, parking spaces, and landscaping.

Each unit owner shall have a valid, exclusive easement to the space between the interior and exterior walls for the purpose of additional utility outlets, wall hangings, erections of non-bearing partition walls, and the like where space between the walls may be necessary for such uses, provided that the unit owner shall do nothing to impair the structural integrity of the building or the soundproofing of the common walls between the units and provided further that the common elements and facilities be restored to their former condition by the "unit owners" and the Association of the Unit Owners (hereinafter described) for the installation, maintenance and repair of common utility services in and on any part of the common elements or units.

#### 6. Limited Common Elements

##### 6.1 Description

A portion of the common elements and facilities are designated as "limited common elements." Such limited common elements consist of all decks and patios adjacent to and having direct access to the units to which they are appurtenant. Such limited common elements shall be reserved for the exclusive use of the owner or occupant of the unit to which they are appurtenant as shown on the Plat.

## 6.2 Use

The manner and use of the limited common elements shall be governed by the Bylaws of and such rules and regulations as may be established by the Association of Unit Owners, and no unit owner shall decorate, landscape or adorn any limited common elements or permit such, in any manner contrary to such Bylaws, rules and regulations, except in the limited common element behind the unit and only within Fifteen (15) feet from back of said unit, said owner may put up wash lines, and place plantings.

## 7. Percentage of Ownership in Common Elements and Facilities

Each unit owner shall own an undivided interest in the common elements and facilities and limited common elements as a tenant in common with all other unit owners and, except as otherwise limited in this Declaration, shall have the right to use and occupy the common elements and facilities and the limited common elements for all purposes incidental to the use and occupancy of his unit as a place of residence and such other incidental use permitted by this declaration, which rights shall be appurtenant to and run with his unit.

The percentage of such undivided interest in the common elements and facilities and limited common elements appertaining to each unit and its owner shall be a percentage as follows: The total square footage of a unit's first floor area and garage, divided by all first floor areas and garages of units presently in said condominium. As the condominium is expanded, said unit's square footage will then be divided by the new total of square footage which shall be said unit's new percentage of undivided interest in the common elements appertaining to each unit.

## 8. Residential Purpose and Limitation of Number of Owners

The building and units therein contained and restricted exclusively to the residential use as governed by the terms and conditions contained herein and the Bylaws of the BLUE HERON CONDOMINIUMS Owners Association, Ltd.

Occupants shall be subject to the following restrictions regarding pets:

- (a) Only one (1) pet not exceeding thirty (30) pounds in weight, except two (2) birds per unit shall be allowed.
- (b) No Pit Bulls, German Shepherds, or Doberman Pinchers shall be allowed.
- (c) All pets must be on leashes if in limited common area or private roadway with leash not exceeding five (5) feet.
- (d) No pet may be left unattended in limited common area, common area or private roadway.

- (e) Pets may only be walked or exercised only in the limited common area allocable to the unit owner of pet and in the private roadway.
- (f) All pet disposition must be immediately removed by the pet owner.
- (g) Pet owners shall not allow any noises or disturbances to be made or created by pets.

#### 9. Registered Agent for Service of Process

The initial registered agent for service of process shall be Jeffrey C. Check, 2500 Washington Street, Manitowoc, WI 54220. Change of agent for service of process may be accomplished by resolution of the Board of Directors of the Unit Owner's Association and upon proper filing of said name with the Secretary of State.

#### 10. Association of Unit Owners

##### 10.1 Duties and Obligations

All unit owners shall be entitled and required to be a member of an association of unit owners to be known as BLUE HERON CONDOMINIUMS Owners Association, Ltd., (hereinafter called Association) which shall be responsible for carrying out the purposes of this Declaration, including the exclusive management and control of the common areas and facilities and limited common areas. Each unit owner and the occupants of the units shall abide by and be subject to all of the rules, regulations, duties and obligations of this Declaration and the By-laws and rules and regulations of the Association.

##### 10.2 Voting Rights

The Association shall have two classes of voting membership as follows:

1. Class A - Class A members shall be all unit owners, with the initial exception of the Declarant, and shall have one vote for each unit owned; should a unit be owned by more than one person, the owners thereof are entitled collectively to only one vote.
2. Class B - Class B members shall be the Declarant who shall be entitled to three (3) votes for each unit contemplated by this Description less units sold.

##### 10.3 Association Personnel

The Association may obtain and pay for the services of any person or entity to manage its affairs to the extent it deems necessary or advisable for the proper operation of the condominium. The association may contract for lighting, heating, water, trash collection, sewer service, snow removal, lawn upkeep, maintenance and such other common services as may be required for each unit.

## 11. Repairs and Maintenance

## 11.1 Common Areas and Facilities

The Association shall be responsible for the management and control of the common areas and facilities and shall cause the same to be kept in good, clean, attractive and sanitary condition, order and repair. Without in any way limiting the foregoing, this shall include all painting, repairing and decorating of exteriors, maintenance and repair of walks, drives, private roadways, parking areas, access routes, storm sewer, sanitary sewer, water mains, grounds, and landscaping.

## 11.2 Individual Units and Limited Common Areas

Each unit owner shall be responsible for keeping the interior of his unit and all of its equipment, fixtures and appurtenances in good order, condition and repair and in a clean and sanitary condition, and shall be responsible for decorating, painting and varnishing which may at any time be necessary to maintain the good appearance and condition of his unit. Without in any way limiting the foregoing, in addition to decorating and keeping the interior of the unit in good repair, each unit owner shall be responsible for the maintenance, repair or replacement of any water heater, plumbing or lighting fixtures, refrigerators, heat and air-conditioning equipment, dishwashers, disposals, laundry equipment such as washers and dryers, ranges, compactors or other equipment which may be in, or be connected with the unit. Each unit owner shall keep any decks or patios or any item added to the limited common element appurtenant to his unit as defined in Section 6 hereof and described in the Plat, in the same condition as interior and equipment above. Each unit owner shall be responsible for watering the lawn in that unit owners' limited common area. Watering shall be done as necessary, as determined by the Board of Directors.

## 11.3 Prohibition Against Structural Changes by Owner

A unit owner shall not, without first obtaining the written consent of the Association, make or permit to be made any structural alterations, changes or improvements to his unit, or in or to the exterior of any building or any common or limited common areas and facilities. A unit owner shall not perform, or allow to be performed, any act or work which would impair the structural style, integrity or soundness of a unit, or reduce the value thereof or impair of easement or hereditament without the written consent of the Association.

## 11.4 Entry for Repairs

The Association may enter any unit at the reasonable times and under reasonable conditions, when necessary, in connection with any maintenance, construction or repair of public utilities and for any other matters for which the Association is responsible. Such

entry shall be made with prior notice to the owners and with as little inconvenience to the owners as is practical and any damage caused thereby shall be repaired by the Association and treated as common expense.

#### 12. Unit Owner's Rights with Respect to Interiors

Each unit owner shall have the exclusive right to paint, repaint, tile, panel, paper or otherwise refurnish and decorate the interior surfaces of the walls, ceilings, floors and doors within such boundaries, and to erect partition walls, of a non-structural nature, provided that such unit owner shall take no action which in any way will materially change any common wall. All floors in said units must be carpeted except the utility rooms, bathrooms, and kitchens.

#### 13. Destruction and Reconstruction

In the event of a partial or total destruction of a building, same shall be repaired and rebuilt as soon as practicable and substantially to the same design, plan and specifications as originally built, unless within ninety (90) days of the date of the damage or destruction, by affirmative vote of at least ninety percent (90%) of the total number of members of the Association entitled to vote, it is determined not to rebuild or repair. In such event, the provision of Section 703.18 of the Wisconsin Statutes shall be applicable.

#### 14. Insurance

The Board of Directors of the Association shall provide and maintain fire and broad form extended coverage insurance on the building in the amount of the full insurable value (replacement value) of the same. Such insurance shall be obtained in the name of the Association as trustee for each of the unit owners and their respective mortgages as their interests may appear. Premiums shall be a common expense. To the extent possible, the insurance shall provide that the insurer waives its rights of subrogation as to any claim against unit owner's the Association, and their respective servants, agents and guests, and that the insurance cannot be canceled, invalidated or suspended on account of conduct of any one or more unit owners, or the Association, or their servants, agents and guests, without thirty (30) days prior written notice to the Association giving it opportunity to cure the defects within that time. The amount of protection and types of hazards to be covered shall be reviewed by the Board of Directors of the Association at least annually and the amount of coverage may be increased or decreased at any time it is deemed necessary as determined by the Board to conform to the requirements of full insurable value, with a reasonable deductible.

In the event of partial or total destruction of a building, and it is determined to repair or reconstruct such building in accordance with Section 35 hereof, the proceeds of such insurance shall be paid to the Association to be supplied to the cost thereof. If it is determined not to reconstruct or repair, then the proceeds

shall be distributed to the unit owners and their mortgages, if any as their respective interests may appear, in the manner provided by the Act.

If the insurance coverage is available to combine protection for the Association and the unit owner's individual unit, the Board of Directors is hereby given discretionary power to negotiate such combination of insurance protection on an equitable cost sharing basis under which the unit owner would be assessed individually for the amount of insurance which he directs the Board of Directors to include in such policies for his additional protection. Copies of all such policies shall be provided to each mortgagee. Nothing contained in this paragraph shall be deemed to prohibit a unit owner, at his own expense, from providing additional insurance coverage on his improvements which shall not duplicate any insurance provided by the Association of Unit Owners.

The Board of Directors shall also provide public liability insurance covering the common elements and facilities and the limited common elements in such amounts as may be determined at the discretion of the Board of Directors from time to time. The Board of Directors may also provide workmen's compensation insurance and fidelity bonds on such officers and employees and in such amounts as determined by the Board of Directors to be necessary from time to time. Given discretionary power to negotiate such combination of insurance protection on an equitable cost sharing basis under which the unit owner would be assessed individually for the amount of insurance which he directs the Board of Directors to include in such policies for his additional protection. Copies of all such policies shall be provided to each mortgagee. Nothing contained in this paragraph shall be deemed to prohibit a unit owner, at his own expense, from providing additional insurance coverage on his improvements which shall not duplicate any insurance provided by the Association of Unit Owners.

The Board of Directors shall also provide public liability insurance covering the common elements and facilities and the limited common elements in such amounts as may be determined at the discretion of the Board of Directors from time to time. The Board of Directors may also provide workmen's compensation insurance and fidelity bonds on such officers and employees and in such amounts as determined by the Board of Directors to be necessary from time to time.

#### 15. Liability for Common Expense

The costs of administration of the Association, insurance, repair, maintenance and other expenses of the common areas and facilities and limited common areas, and common services provided to the unit owners, shall be paid for by the Association. The Association shall make assessments against the unit owners, as well as the units themselves, for such common expenses in accordance with the percentage of the undivided interest in the common elements and facilities relating to each unit, in the manner provided in the Bylaws of the Association. No unit owners may exempt himself or his unit ownership from liability for his contribution toward the common expenses by waiver of the use of enjoyment of any of the common or

limited common elements and facilities of services or by the abandonment of his unit; and no conveyance shall relieve the unit owner or his unit of such liability, and he shall jointly, severally and personally be liable along with his grantee in any such conveyance for the common expenses incurred up to the date of sale, until all expenses charged to his unit have been paid.

All common expenses and assessments, which due, shall immediately become a personal debt of the unit owner and also a lien, until paid, against the unit to which charged, as provided in the Act, without the necessity of filing such lien, and this provision shall constitute notice to all successors of title to units.

#### 16. Partition of Common Elements Prohibits

There shall be no partition of the common elements and facilities and limited common elements through judicial proceedings or to otherwise until this Declaration is terminated and the property is withdrawn from its terms or from the terms of the applicable statutes regarding unit ownership or condominium ownership; provided, however, that if any unit shall be owned by two or more co-owners as tenants in common or as joint tenants, nothing contained herein shall be deemed to prohibit a voluntary or judicial partition of said single unit or its use, as between such co-owners. No unit may be subdivided.

#### 17. Conveyance to Include Interest in Common Elements and Facilities and Limited Common Elements

The percentage of the undivided interest in the common and limited common elements and facilities shall not be separated from the unit to which it appertains. No unit owner shall execute any deed, mortgage, lease or other instrument affecting title to such unit ownership without including therein both his interest in the unit and his corresponding percentage of ownership in the common and limited common elements and facilities, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage, lease or other instrument purporting to affect the one without including also the other shall be deemed and taken to include the interest if omitted even though the latter is not expressly mentioned or described therein.

#### 18. Easements, Reservations, and Encroachments

##### 18.1 Utilities

Easements are hereby declared and granted for the benefit of the unit owners and the Association and reserved for the benefit of the Declarant for utility purposes, including the right to install, lay, maintain, repair and replace electrical lines, water mains and pipes, sewer lines, gas mains, telephone wires and equipment, including power transformers, and cable T.V., over, under, along and on any part of the common elements and facilities. If at

any time before the initial sale of all proposed units, additional easements are necessary for above said purposes, then Declarant is hereby granted the authority to execute the documents necessary to record said easements. All utility easement areas shall be kept free of any obstacles, including trees, shrubs, and the like.

#### 18.2 Encroachments

In the event that by reason of the construction, reconstruction, settlement, or shifting of the building, or the design or construction of any unit, any part of the common elements and facilities, or limited common elements, or any portion of any unit encroaches upon any part of any other unit, valid easements for the maintenance of such encroachment are hereby established and shall exist for the benefit of such unit so long as all or any part of the building containing such unit shall remain standing; provided, however, that in no event shall a valid easement for any encroachment be created in favor of the owner of any unit or in favor of the owner or owners or the common elements or facilities, or limited common areas, if such encroachment occurred due to the willful conduct of said owner or owners.

#### 18.3 Binding Effect

All easements and rights described herein are easements appurtenant, running with the land, and are subject to the reasonable control of the Association. All easements and rights described herein are granted and reserved to, and shall insure to the benefit of and be binding on, the undersigned, his successors and assigns, and on all unit owners, purchasers and mortgagees and their heirs, personal representatives, executors, administrators, successors, and assigns. The Association shall have the authority to execute all documents necessary to carry out the intent of this Section 18.

#### 19. Failure of Association to Insist on Strict Performance Not Waiver

The failure of the Association to insist, in any one or more instances, upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, or to exercise any right or option herein contained, or to serve any notice or to institute any action, shall not be construed as a waiver or relinquishment for the future of such term, covenant, condition or restriction, but such term, covenant, condition or restriction shall remain in full force and effect. The receipt by the Association of payment of any assessment from a unit owner, with knowledge of the breach of any covenant hereof, shall not be deemed as a waiver of such breach, and no waiver by the Association of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Association.

#### 20. Amendments to Declaration

Except as otherwise provided by the Act with respect to the percentage of interest in the common elements and termination of condominium form of ownership, this Declaration may be amended by the written consent, or, the Affirmative vote of not less than three-fourth (3/4) of all votes entitled to be cast by the unit owners and their mortgagees following the initial sale of all Fifty-six (56) units by Declarant. Prior to such time, the consent in writing of the Declarant, their successors or assigns, shall be required. No amendment shall alter or abrogate the rights of Declarant as contained in this Declaration. Copies of amendments shall be certified by the President and Secretary of the Association in a form suitable for recording. A copy of the amendment shall also be mailed or personally delivered to each unit owner at his address on file with the Association.

#### 21. Notices

All notices and other documents required to be given by this Declaration or the Bylaws of the Association shall be sufficient if given to one (1) registered owner of a unit regardless of the number of owners who have an interest therein. Notices and other documents to be served upon Declarant shall be given to the Agent specified for receipt of process herein. All owners shall provide the Secretary of the Association with an address for mailing or service of any notice or other documents and the Secretary shall be deemed to have discharged his duty with respect to giving of notice by mailing it or having it delivered personally to such address as is on file with him.

#### 22. Captions

The captions and section headings herein are inserted only as matters of convenience and for reference, and in no way define nor limit the scope of intent of the various provisions hereof.

#### 23. Severability

The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect validity or enforceability of the remaining portion of said provision or any other provision hereof.

#### 24. Homestead

This is not homestead property.

IN WITNESS WHEREOF, the said parties hereto have set our hands  
and seal this  
11th day of September, 1992.

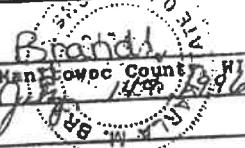
BLUE HERON Partners

By:

Jeffrey C. Check  
Jeffrey C. Check  
General Partner

STATE OF WISCONSIN )  
Manitowoc County ) SS

Personally came before me this 11th day of September, 1992 the  
above named Jeffrey C. Check to me known to be the person who executed  
the foregoing instrument and acknowledged the same.

Karla M. Brandl  
Karla M. Brandl  
Notary Public, Manitowoc County, WI  
My Commission: 08/14/96  


This instrument was drafted by Jeffrey C. Check

BYLAWS OF  
BLUE HERON CONDOMINIUMS,  
AN EXPANDABLE CONDOMINIUM  
OWNERS ASSOCIATION, LTD.

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NONSTOCK ~~CO.~~  
ARTICLES OF INCORPORATION

Executed by the undersigned for the purpose of forming a Wisconsin corporation under Chapter 181 of the Wisconsin Statutes, WITHOUT STOCK AND NOT FOR PROFIT.

Article 1.

The name of the corporation is BLUE HERON CONDOMINIUM, AN EXPANDABLE CONDOMINIUM OWNERS ASSOCIATION, Ltd.

2 AUG 13

8:00

Article 2.

The period of existence shall be perpetual

Article 3.

The purposes shall be the upkeep and governing of the Owners Association of BLUE HERON CONDOMINIUM, AN EXPANDABLE CONDOMINIUM and any other legal purpose.

Article 4.

The principal office is located in Manitowoc County, Wisconsin.

The address of such principal office is 2500 WASHINGTON STREET  
MANITOWOC, WI 54220

--  
| The complete address, including street and  
| number, if assigned, and the ZIP code, must  
be stated.

Article 5.

The name of initial registered agent is Jeffrey C. Check

Article 6.

The address of the initial registered agent is 3610 FAIRWAY DRIVE  
CATO, WI 54206

--  
| The complete address, including street and  
| number, if assigned, and the ZIP code, must  
be stated.

Article 7.

These articles may be amended in the manner authorized  
by law at the time of amendment.

-16-

WIS SEC-STATE  
FILE I.D. #

P034215

-SEE INSTRUCTIONS AND SUGGESTIONS  
ON PAGES AND OF FORM-

Select ONE of the following. Cross out the ONE not selected.

Article 8.  
~~At least 3, with complete address including street and number, if assigned, and the ZIP code~~

OR

Article 8.  
The number of directors shall be 3 (must be at least three)

Article 9.

The names and addresses of the initial board of directors are

--  
 At least 3, with complete address including street and number, if assigned, and the ZIP code  
--

Jeffrey C. Check  
3610 Fairway Drive  
Cato, WI 54206

Judith A. Check  
3610 Fairway Drive  
Cato, WI 54206

Mike Bodart  
3125 Adams Street  
Two Rivers, WI 54241

Select ONE of the following. Cross out the ONE not selected.  
See instructions on page 3, Item G.

Article 10.  
Membership Provisions will be set forth by by-law

OR

Article 10. (See Instruction G)  
~~At least 3, with complete address including street and number, city, state & ZIP code~~

Article 11.  
(Other provisions)

Article 12.

The name and address of incorporator (or incorporators) are:

NAME

ADDRESS  
(street & number, city, state & ZIP code)

1) Jeffrey C. Check

3610 Fairway Drive, Cato, WI 54206

2) \_\_\_\_\_

\_\_\_\_\_

3) \_\_\_\_\_

\_\_\_\_\_

4) \_\_\_\_\_

\_\_\_\_\_

Executed in duplicate on the 4th day of August, 19 92

All incorporators

SIGN HERE

474 454

**NOTARY:** In completing this section, please specifically name the individual(s) whose signature(s) you are witnessing. The name(s) you cite should agree in every particular with the printed or typewritten name(s) as it appears in Article 12. Affix your seal, sign and state commission expiration date.

STATE OF WISCONSIN 88.

County of

Personally came before me this 4th day of August A.D. 1992  
the aforesigned incorporator(s) (1) Jeffrey C. Check  
(2) \_\_\_\_\_ (3) \_\_\_\_\_ (4)  
to me known to be the person(s) who executed the foregoing instrument, and  
acknowledged the same.

My commission  
expires July 14, 1996

Karla M. Brandt  
Notary Public Signature  
Karla M. Brandt



This document was drafted by Jeffrey C. Check 4416826104 (See instructions)  
(Name of individual required by law) (Phone)  
Please print or type

**INSTRUCTIONS AND SUGGESTIONS**

AUG 14 1992

DOUGLAS LA FOLLETTE  
SECRETARY OF STATE

**CONTENT OF THE FORM**

- A. Article 1. The name must contain "Corporation", "Incorporated", or "Limited", or the abbreviation of one of those words. Please list, in order of preference, a second and third choice name. (2) BLUE HERON CONDO OWNER, Ltd.  
(3) BLUE HERON CONDO OWNERS ASSOCIATION, Ltd.
- B. Article 2. Insert "perpetual". You may insert any limitation desired, but not indefinite or a word to imply an indefinite status. Corporate existence begins as of the date that the articles of incorporation are approved for filing by the Secretary of State's office.
- C. Article 3. May show definite purposes or may use language to the effect that the corporation may engage in any lawful activities authorized by Chapter 181 of the Wisconsin Statutes. (The statute expressly states that it is not necessary to enumerate the powers.)
- D. Article 4. Give complete mailing address of the corporation's principal office in Wisconsin, including street name and number, city and ZIP code, and the COUNTY within which the office is located. P.O. Box addresses may be used.
- E. Articles 5 and 6. The corporation must have a registered agent in Wisconsin. Be sure and show a complete address, including street and number, city and ZIP code for the registered agent. P.O. Box address may be included for mailing purposes.
- F. Article 9. Sec. 181.20(2) provides that the initial board of directors shall be named in the articles of incorporation. The number of directors shall not be less than 3. Please give complete addresses, including street and number, city and ZIP code for all directors.
- G. Article 10. If the membership provisions are set forth in the articles of incorporation (rather than in the by-laws), provide for A) method of accepting and discharging members; B) any denial or restriction of voting rights; and C) any classification of members, including the distinguishing features of each class. If the corporation is to have NO MEMBERS, strike out both imprinted Articles 10 and substitute the remark that "The corporation is to have no members," and further set forth the manner of election or appointment of directors.

ARTICLES OF INCORPORATION  
Mail Returned Copy to:  
(FILL IN THE NAME AND ADDRESS HERE)

2d  
Jeffrey C. Check  
2500 Washington Street  
Manitowoc, WI 54220

\$16cks

If a problem exists with the filing of this form, may we call you to attempt to resolve it? If so, please provide us with a phone number at which you can be reached during the day. 414 - 682-6104

INSTRUCTIONS AND SUGGESTIONS (Continued)

- H. Article 12. Have the INCORPORATOR SIGN before a Notary Public. The number of incorporators may be one or more, but all the incorporators listed in the articles must sign. Make sure that both of the copies have ORIGINAL SIGNATURES. Carbon copy, xerox, or rubber stamp signatures are not acceptable.
- I. Notary public must SIGN AND AFFIX SEAL on both copies of the articles, and complete their statement in the area provided. Make sure that original signatures and seal impressions appear on both copies.
- J. If the document is executed or acknowledged in Wisconsin, sec. 14.38(14) of the Wisconsin Statutes provides that it shall not be filed unless the name of the person (individual) who, or the governmental agency which, drafted it is printed, typewritten, stamped or written thereon in a legible manner.

681301

PREPARATION, FEES AND TRANSMITTAL

- K. Prepare document in DUPLICATE ORIGINAL. Furnish Secretary of State two identical copies of the articles of incorporation. (Mailing address: Corporation Division, Secretary of State, P.O. Box 7046, Madison, WI 53707). One copy will be retained (filed) by Secretary of State and the other copy transmitted directly to the Register of Deeds of the county within which the corporation's principal office is located, together with your check for the recording fee. When the recording has been accomplished, the document will be returned to the address you furnish on the back of the form.
- N. Two SEPARATE REMITTANCES are required.
  - 1) Send a FILING FEE of \$35 payable to SECRETARY OF STATE with the articles of incorporation. Your cancelled check is your receipt for fee payment.
  - 2) Send a RECORDING FEE of \$10 (or more) payable to REGISTER OF DEEDS with the articles of incorporation. Name the COUNTY within which the corporation's principal office is located. Recording fee for this standard form is \$10. If you append additional pages, add \$2 more recording fee for each additional page. Please furnish the fee for the Register of Deeds in check form to this office and we will transmit it to the Register of Deeds with the document for recording.

NOTE: Corporations that expect to apply to Internal Revenue Service for TAX EXEMPT STATUS are advised to consult that agency before preparing their articles of incorporation. Particular language and specifications must be included in the document in order to meet federal tax code requirements.

BYLAWS OF  
BLUE HERON CONDOMINIUMS,  
AN EXPANDABLE CONDOMINIUM  
OWNERS ASSOCIATION, LTD.

The administration of the BLUE HERON CONDOMINIUMS, AN EXPANDABLE CONDOMINIUM Owners Association, Ltd., shall be governed by these Bylaws, by the Condominium Ownership Act, Wisconsin Statutes, as amended ("the Act"), and by the Declaration.

1. APPLICATION OF BYLAWS

All present and future unit owners, mortgagees, lessees and occupants of units and their employees, and any other persons who may use the facilities of the property in any manner are subject to the Declaration, the Articles of Incorporation, these Bylaws, and all rules made pursuant hereto and any amendment thereof. The acceptance of deed of conveyance or the entering into of a lease or the act of occupancy of a unit shall constitute an agreement that the provisions of the Declaration, the Articles of Incorporation, and these Bylaws (and any rules and regulations made pursuant thereto), as they may be amended from time to time, are accepted, ratified, and will be complied with.

2. ASSOCIATION OF UNIT OWNERS

The BLUE HERON CONDOMINIUMS, AN EXPANDABLE CONDOMINIUM Owners Association, Ltd., as association organized pursuant to Wisconsin Condominium Statutes. The name in which contracts shall be entered into, title to property shall be acquired, held, dealt in, and disposed of, bank accounts shall be opened, and suits shall be brought and defended by the Board of Directors of officers thereof on behalf of and agents for the unit owners in the manner specified by the Act, the Declaration, or these Bylaws, is the BLUE HERON CONDOMINIUMS, AN EXPANDABLE CONDOMINIUM Owners Association, Ltd.

3. MEETINGS OF THE ASSOCIATION

3.1 The presence in person or by proxy at any meeting of the association of unit owners holding at least seventy-five percent (75%) of the undivided ownership of the common elements in response to notice of all unit owners of record properly given shall constitute a quorum. In the event that owners holding at least seventy-five percent (75%) of the undivided ownership of the common elements are not present in person or by proxy. The meeting shall be adjourned for twenty-four (24) hours, at which time it shall reconvene and any number of unit owners present at such subsequent meeting will constitute a quorum. Unless otherwise expressly provided in the Declaration or the Articles of Incorporation, an action may be taken at any meeting of the unit owners upon a majority vote of the unit owners who are present in person or by proxy and who are voting.

3.2 There shall be an annual meeting of the association on the Third Monday of March at 7:00 p.m. at the property or at such other reasonable place or time (not more than sixty (60) days before or

after such date) as may be designated by written notice by the Board of Directors delivered to the unit owners not less than fifteen (15) days prior to the date fixed for said meeting. At or prior to an annual meeting, the Board of Directors shall furnish to the unit owners: (1) a budget for the coming fiscal year that shall itemize the estimated common expenses of the coming fiscal year with the estimated allocation thereof to each unit owners; and (2) a statement of common expenses itemizing receipts and disbursements for the previous and current fiscal year, together with the allocation thereof to each unit owner. Within ten (10) days after the annual meeting, the budget statement shall be delivered to the unit owners who were not present at the annual meeting.

3.3 Special meetings of the association may be held at any time at the property or at such other reasonable place to consider matters which, by the term of the declaration require the approval of all or some of the unit owners, or for any other reasonable purpose. Special meetings shall be called by written notice, signed by a majority of the Board of Directors, or by unit owners representing at least one-half (1/2) in interest of the undivided ownership of the common elements and delivered to all unit owners not less than fifteen (15) days prior to the date fixed for said meeting. The notices shall specify the date, time and place of the meeting, and the matters to be considered.

#### 4. OFFICERS

4.1 All officers and employees of the association shall serve at the will of the Board of Directors. The officers shall be a president, secretary and treasurer. No officer shall be required to be a unit owner, but the president must be a member of the Board of Directors. No officer shall receive compensation for serving as such. Officers shall be annually elected by the Board of Directors and may be removed and replaced by the Board of Directors. The Board of Directors may, in its discretion, require that officers (and other employees of the association) be subject to fidelity bond coverage. Resignation of any officer shall be in writing directed to the Board of Directors which shall act promptly thereof.

4.2 The president shall be the chief executive of the Board of Directors and shall preside at all meetings of the unit owners and of the Board of Directors and may exercise the powers ordinarily assigned to and exercised by the president office of an association, and including the appointment of committees. The president shall exercise general supervision over the property and its affairs. He shall sign on behalf of the association all conveyances, mortgages, and contracts of material importance to its business. He shall do and perform all acts which the Board of Directors may require.

4.3 The secretary shall keep minutes of all proceedings of the Board of Directors and of the meetings of the association, and shall keep such books and records as may be necessary and appropriate for the records of the unit owners and the Board of Directors. In the absence or inability of the president, the secretary shall perform the functions of the president.

4.4 The treasurer shall be responsible for the fiscal affairs of the association, but may delegate the daily handling of funds and the keeping of records to a manager or managing company.

4.5 The membership may ratify actions of the officers subsequent thereto and thereby give full force and effect to such actions as though approved in advance.

##### 5. BOARD OF DIRECTORS

5.1 The management and maintenance of property and the business property and affairs of the BLUE HERON CONDOMINIUMS, AN EXPANDABLE CONDOMINIUM Owners Association, Ltd., ("Association") shall be managed by a Board of Directors consisting of three (3) members, who need not be unit owners. The Board of Directors shall be elected as provided in these Bylaws.

5.2 The Board of Directors shall have all the powers, duties and responsibilities as are now or may hereafter be provided the Act, the Declaration and these Bylaws, including but not limited to the following:

5.2.1 To make and enforce all house rules and administrative rules and regulations covering the operation and maintenance of the property.

5.2.2 To engage the services of the manager, or managing company, accountants, attorneys, or other employees compensation therefore.

5.2.3 To operate, maintain, repair, improve, and replace the common areas and facilities.

5.2.4 To determine and pay the common expenses.

5.2.5 To assess and collect the proportionate share of common expenses from the owners.

5.2.6 To enter into contracts, deeds, leases, or other written instruments or documents and to authorize the execution and delivery thereof by the appropriate officers.

5.2.7 To open bank accounts on behalf of the association and to designate the signatures therefor.

5.2.8 To bring, prosecute, and settle litigation for itself, the association, and the property provided that it shall make no settlement which results in a liability against the Board of Directors, the Association, or the property in excess of \$500.00 without prior approval of a majority of the unit owners.

5.2.9 To obtain insurance for the association with respect to the unit and the common areas and facilities, as well as workmen's compensation insurance.

5.2.10 To own, purchase or lease hold and sell or otherwise dispose of, on behalf of the unit owners, items of personal property necessary to or convenient in the management of the business and affairs of the association and the Board of Directors and in the operation of the property.

5.2.11 To keep adequate books and records.

5.2.12 To approve and sign checks and issue payment vouchers.

5.2.13 To do all other acts necessary for the operation and maintenance and repair of any unit if the same is necessary to protect or preserve the property, provided however that the management shall operate no other business for profit.

5.3 The Board of directors may delegate to a manager or managing company all of its foregoing power, duties and responsibilities referred to in paragraph 5.2 above except; the first determination of common expenses, budgets and assessments based thereon, the promulgation of house rules and administrative rules and regulations, the power to enter into any contract involving more than \$500.00 in any one fiscal year, the opening of bank accounts, the power to purchase, hold, sell, convey mortgage or lease any units in the name of the association or to bring, prosecute or settle litigation.

5.4 Members of the Board of Directors, the officers and any assistant officer, agents and employees of the association (i) shall not be liable to the unit owners as a results of their activities as such for any mistake of judgment, negligence or otherwise, except for their own willful misconduct or gross negligence; (ii) shall have no personal liability in contract to a unit owner or any other person or entity under any agreement, instrument, or person or entity under any agreement, instrument, or transaction entered into by them on behalf of the association in their capacity as such; (iii) shall have no personal liability in tort to any unit owner or any person or entity, direct or imputed, by virtue of acts performed by them, or acts performed for them in their capacity as such; and (iv) shall have no personal liability arising out of the use, misuse, or condition of the property which might in any way be assessed against or imputed to them as a results or by virtue of their capacity as such.

5.5 The unit owners shall indemnify and hold harmless, any person his heirs and personal representatives, from and against all personal liability, and all expenses including counsel fees, incurred or imposed, or arising out of or in settlement of any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative by any one or more unit owners, or any others persons or entities, to which he shall be or shall be threatened to be made a party of reason of the fact that he is or was a member of the board of Directors or an officer or assistant office, agent or employee of the association, other than to the extent, if any, that such liability or expense shall be attributable to his willful misconduct or bad faith, provided, in the case of any settlement, which approval is not to be unreasonably

withheld. Such right of indemnifications shall not be deemed exclusive of any other rights to which such person may be entitled as a matter of law or agreement or otherwise. The indemnification by the unit owners as contained herein shall be paid by the board of Directors on behalf of the unit owners and shall constitute a common behalf of the unit owners and shall constitute a common expense and shall be assess and collectible as such.

5.6 Beginning with the first annual meeting and at every annual meeting hereafter, the association shall elect the members of the Board of Directors for the forthcoming year. Nominations for the positions of the Board of Directors may be made by petition filed with the secretary of the Association, which petition shall be signed by one (1) or more unit owners and signed by the nominee named therein indicating his willingness to serve as a member of the Board of Directors if elected. Members of the Board of Directors shall not be required to be unit owners, but must be natural persons and residents of the State of Wisconsin.

5.7 Members of the Board of Directors shall serve for a term of two (2) years; provided, however, that one member of the Board of directors elected at the first annual meeting shall serve for an initial term of two (2) years and the other members shall serve an initial term of three (3) years. The member of the Board of Directors shall serve until their respective successors are elected, or until their death, resignation, or removal. Any member of the Board of Directors who fails to attend three consecutive Board of Directors meetings held during any calendar year shall forfeit his membership on the Board of Directors.

5.8 Any member of the Board of Directors may resign at any time by giving written notice to the president of the association or the remaining Board of Directors member. Any member of the Board of Directors may be removed from membership on the Board of Directors by a two-thirds majority vote of the association. Whenever there shall occur a vacancy on the Board of Directors due to death, resignation, removal, or any other cause, the remaining members shall elect a successor member to serve until the next annual meeting of the association, at which time said vacancy shall be filled by the association of the unexpired term, if any.

5.9 The members of the Board of Directors shall receive no compensation for their services unless expressly approved by a majority of the association; provided, however, that any member of the Board of Directors may be employee by the Association in another capacity and receive compensation for such employment, if otherwise allowed.

5.10 The meeting of the Board of Directors shall be held at Manitowoc, Wisconsin. Two (2) members of the Board of Directors shall constitute a quorum, and if a quorum is present, the decision of a majority of those present shall be the act of the Board of Directors. The Board of Directors shall annually elect all of the officers of the association. The meeting for the election of officers shall be held at the first meeting of the Board of Directors immediately following the annual meeting of the Association.

5.11 Regular meeting of the Board of Directors may be held without call or notice.

5.12 The fiscal year shall be the calendar year.

5.13 The membership may ratify actions taken by the Board of Directors subsequent to such actions and thereby give such action the full force and effect as though approved in advance.

#### 6. COMMON EXPENSES: ASSESSMENTS

6.1 All assessments shall be made and collected in accordance with this paragraph and the provisions of Paragraph 7 hereof.

6.2 Each owner shall be liable for a proportionate share of the common expenses, such shares being the same as the percentage in the common elements appurtenant to the unit owned by the unit owner.

6.3 Within thirty (30) days prior to the annual meeting of the association, the Board of Directors shall estimate the common expenses and capital contributions for the following year. The estimate of capital contributions may include such amounts as the Board of Directors may deem proper for general working capital, for the general operating reserve, for a reserve fund for replacements and major maintenance, and shall take into account any expected income, surplus, or deficit in the common expenses for any prior year. These estimated capital contributions and common expenses shall be presented at the annual meeting and thereafter shall be assessed on a monthly basis to the unit owners in proportion to the percentage as stated as 6.2 above. If the estimated common expenses prove inadequate for any reason, including nonpayment of any unit owners assessments, the Board of Directors may, by resolution duly adopted, make additional assessments, which shall be assessed to the unit owners in the same manner as the estimated common expenses. Each unit owner shall be obligated to pay to the Board of Directors assessments made pursuant to this paragraph on or before the first day of each month, or in such other reasonable manner as the Board of Directors shall designate, notwithstanding the above, the developer shall pay assessments only on completed units owned by the developer. The funds received by the Board of Directors from assessments shall be kept in either the capital account or in the common expense fund and shall be expended by the Board of Directors only in accordance with the provisions of the Act, the Declaration, and these Bylaws.

6.4 The failure by the Board of Directors before the expiration of any year to estimate the common expenses as required therein shall not be deemed a waiver or modification in any respect of the provisions of the Declaration or these Bylaws or a release of the unit owner from the obligation to pay any past or future assessments, on the estimated common expenses fixed for the previous and current year shall continue until a new estimate is fixed.

6.5 No unit owner may exempt himself from liability for common expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of his unit.

6.6 The treasurer shall keep detailed records of all receipts and expenditures, including expenditures affecting the common elements, specifying and itemizing the maintenance, repair, and replacement expenses of the common element and any other expenses incurred. In accordance with the actions of the Board of Directors assessing common expenses against the units and unit owners, the treasurer shall keep an accurate record of such assessments and of the payments thereof by each unit owner. The books and accounts of the association shall be kept in accordance with generally accepted accounting procedures under direction of the treasurer. The books and accounts of the association shall be available for inspection at the office of the association, or at the office of the managing company by any unit owner or his authorized representative during the regular business hours.

6.7 There shall be no single improvement exceeding the sum of \$500.00 made by the Board of Directors without the same having been first voted on by an approved majority of those present in person or by proxy of the association at a meeting duly called for that purpose. The foregoing shall not apply in connection with damage or destruction referred to in paragraph 13 of the Declaration or to such structural alterations, capital additions to, or capital improvements of the common elements as are necessary in the Board of Directors' reasonable judgment to preserve or maintain the integrity of the common elements or the property.

6.8 Amendments to the Paragraph 6 shall be effective only upon written consent of all of the unit owners and their mortgagees.

#### 7. COLLECTION OF ASSESSMENTS

7.1 All common expense assessments shall be a separate, distinct, and personal liability of the owner of the unit at the time each assessment is made. The Board of Directors shall have the rights and remedies contained in the Act, the Declaration and these Bylaws to enforce the collection of assessments for common expenses.

7.2 Any person who shall have entered into a written agreement to purchase a unit shall be entitled to obtain a written statement from the treasurer setting for the amount of unpaid assessment charged against the unit and its owners, and if such statement does not reveal the full amount of unpaid assessments as of the date it is rendered, neither the purchaser nor the unit shall be liable for the payment of

an amount in excess of the unpaid assessments shown thereon, provided that the former unit owner grantor shall remain so liable. Any such excess which cannot be promptly collected from the former unit owner grantor shall be reassessed by the Board of Directors as a common expense to be collected from all unit owners, including the purchase of the unit, his successors, and assigns. The new unit owner shall, and the former unit owner shall not, be liable for any assessments made after the date of transfer of title to a unit, even though the common expenses for the expenses incurred or the advances made by the Board of Directors for which the assessment is made relate in whole or in part to any period prior to that date.

7.3 In the event the title to a unit is transferred at the sheriff's sale pursuant to execution upon any lien against the unit, the Board of Directors shall give notice in writing to the sheriff of any unpaid assessments for common expenses which are a lien against the unit, and for any expenses of or advances by the Board of Directors which have not heretofore been reduced to a lien, which shall be paid out of the proceeds of the sale prior to the distribution of any balance to the former unit owner against whom the execution was issued. The purchaser at such sheriff's sale and the unit involved shall not be liable for unpaid assessments for common expenses and for any expenses of or advances by the Board of Directors which became due prior to the sheriff's sale of the unit. Any such unpaid assessments which cannot be promptly collected from the former unit owner shall be reassessed by the Board of Directors as a common expense to be collected from all of the unit owners, including the purchaser who acquired title at the sheriff's sale, his successors, and assigns. To protect its right to collect unpaid assessments for common expenses which are a lien against a unit and for any expenses of an advances by the Board of Directors, the Board of Directors may, on behalf of all the unit owners purchase the unit at sheriff's sale, provided such action is authorized by the affirmation vote of a majority of the members of the Board of Directors.

7.4 In addition to the statement issuable to purchasers of units, the Board of Directors shall provide a current statement of unpaid assessments for common expenses and for any expenses of any advances by the Board of Directors in respect of the unit, to the unit owner, to any person who shall have entered into a binding agreement to purchase the unit, and to any mortgagee on request at reasonable intervals.

7.5 In all cases where all or part of any assessments for common expenses and for any expenses of an advances by the Board of Directors cannot be promptly collected from the persons or entities liable therefor under the Act, the Declaration or these Bylaws, the Board of Directors shall reassess the same as a common expense, without prejudice to its rights of collection against such persons or entities.

## 7.6 Lien for unpaid assessments

7.6.1 All sums assessed to any unit pursuant to this section, together with interest thereon as provided herein, shall be secure by a lien on such unit in favor of the Board of Directors. Such lien shall be superior to all other liens and encumbrances on such unit, except for only for: (a) valid tax and special assessment liens on the unit in favor of any governmental assessing authority; and (b) encumbrances on the interest of the unit owner recorded prior to the date that notice of the lien provided for herein is recorded which by law could be a lien prior to subsequently recorded encumbrances. All other liens acquiring liens on any unit after the Declaration shall have been recorded shall be deemed to consent that such liens shall be inferior to future liens for assessments, as provided herein, whether or not such consent be specifically set forth in the instruments creating such liens.

7.6.2 To evidence a lien for sums assessed pursuant to this section, the Board of Directors may prepare a written notice of lien setting forth the amount of the assessment, the due date, the amount remaining unpaid, the name of the owner of the unit, and a description of the unit. Such a notice shall be signed by such body and may be recorded in the office of the Register of Deeds for Manitowoc. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such liens may be enforced by foreclosure by the Board of Directors in the same manner in which mortgages on real property may be foreclosed in Wisconsin. In any such foreclosure, the owner shall be required to pay the cost and expenses of such proceeding, the cost and expenses of filing and notice of lien, and all reasonable attorney's fees. All such costs, expenses, and fees shall be secure by the lien being foreclosed. The lien shall also secure, and the owner shall also be required to pay the Board of Directors, any assessments against the unit which shall become due during the period of foreclosure. The Board of Directors shall have the right and the power to bid an amount equal to its then existing lien at the foreclosure sale or other legal sale to acquire, hold, convey, lease, rent encumber, use and otherwise deal with the same as the owner thereof.

7.6.3 A release of lien shall be executed by the Board of Directors and recorded in the office of the Register of Deeds, upon a payment of all sums and secured by a lien which has been made the subject of a recorded notice of lien.

7.6.4 An encumbrancer holding a lien on a unit may pay, but shall not be required to pay, any amounts secured by the lien created by this section, and upon such payments such encumbrancer shall be subrogated to all rights of the Board of Directors with respect to such lien, including priority.

7.6.5 The assessing body shall report to any encumbrances for a unit any unpaid assessments remaining unpaid for longer than thirty (30) days after the same shall have become due; provided, however, that such encumbrancer first shall have furnished to the assessing body written notice of such encumbrance.

7.6.6 In any foreclosure of a lien for assessments, the unit owner subject to the lien shall be required to pay a reasonable rental for the unit, and the Board of Directors shall be entitled to the appointment of a receiver to collect the same.

7.7 Personal obligation assessments. The amount of any annual or special assessment against any unit shall be the personal obligation of the owner thereof to the Board of Directors. Suit to recover a money judgment for such personal obligation shall be maintainable by the Board of Directors without foreclosing or waiving the lien securing the same. No owner may avoid or diminish any personal obligation by waiver of the use and enjoyment of any of the common areas or by abandonment of this unit.

7.8 In addition to and not limited by any other remedy provided for herein, the Board of Directors may restrict or deny the use and enjoyment of any common element to any owner, his family, guests, or assigns, who is delinquent in the payment of any regular or special assessment.

7.9 If the unit owner shall, at any time, let or sublet his unit and shall default for a period of one month in the payment of assessments, the Board of Directors may, at its option, so long as such default shall continue, demand and receive from any tenant or subtenant of the owner the rent due or becoming due, and the payment of such rent to the Board of Directors shall be sufficient payment and discharge of such tenant or subtenant and the owner to the extent of the amount so paid.

7.10 Assessments and any installments thereof not paid on or before ten (10) days after the date when due shall bear interest at the rate of eighteen percent (18) per annum, or at such rate of interest as may be set by the Board of Directors, from the date when due until paid. All payments on account shall be first applied to interest and then to the assessment payment first due.

#### 8. LITIGATION

8.1 If any action is brought by one or more but less than all unit owners on behalf of the association and recovery is had, the plaintiff's expenses, including reasonable counsel's fees, shall be a common expense; provided, however, that if such action is brought against the unit owners or against the Board of Directors, the officers, employees, or agents thereof, in their capacities as such, with the result the ultimate liability asserted would, if proved, be borne by all the unit owners, the plaintiff's expenses, including counsel fees, shall not be charged to or borne by the other unit owners, as a common expenses or otherwise.

8.2 Complaints brought against the association, the Board of Directors or the officers, employees, or agents thereof, in their respective capacities as such or the property as a whole, shall be directed the Board of Directors, which shall promptly give written notice thereof to the unit owners and any mortgagees and shall be defended by the Board of Directors, and the unit owners and mortgagees

shall have no right to participate other than through the Board of Directors in such defense. Complaints against one or more, but less than all unit owners, shall be directed to such unit owners, who shall promptly give written notice thereof to the Board of Directors, and to the mortgagees affecting such units, and shall be defended by such unit owners.

#### 9. ABATEMENT AND RESTRAINT OF VIOLATIONS BY UNIT OWNERS

The violation of any house rules or administrative rules or regulations adopted by the Board of Directors or the breach of any provision of the Declaration, shall give the Board of Directors the right, in addition to any other rights set forth in these Bylaws:

9.1 To enter the unit in which or as to which such violation or breach exists and to summarily abate and remove, at the expense of the defaulting unit owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board of Directors shall not thereby be deemed guilty in any manner of trespass; or

9.2 To enjoin, abate or remedy by appropriate legal proceedings, either at law or in the equity the continuance of any such breach.

#### 10. SPECIAL COMMITTEES

The Board of Directors by resolution may designate one or more special committees, such committee to consist of two (2) unit owners which, to the extent provided in said resolution shall have and may exercise the powers set forth in said resolution. Such special committee or committees shall have such name or names as may be determined from time to time by the Board of Directors. Such special committees shall keep regular minutes of their proceedings and report the same to the Board of Directors when required. The members of such special committee or committees designated shall be appointed by the Board of Directors or the president. The Board of Directors or the president may appoint unit owners to fill vacancies on each of said special committees occasioned by death, resignation, removal, or inability to act for any extended period of time.

#### 11. MEMBERSHIP AND VOTING

The members of the association shall be the fee owners of the units. The Board of Directors shall maintain a list of owners which shall be updated on a regular basis. Disputes over the membership list shall be resolved by reference to the Official Records of the Register of Deeds for Manitowoc County, Wisconsin. At any meeting of the Association of the Unit Owners, each unit owner, including Declarant, either in person or by proxy, shall be entitled to the same number of votes as the percentage of undivided interest of the common elements assigned to his unit as specified at 10.2 of the Declarations at page 5 thereof. If there is more than one unit owner with respect to a particular unit, any or all of such unit owners may attend any meeting of the association, but it shall be necessary for all such unit owners present to act unanimously in order to cast the votes

pertaining to their unit. All votes may be cast either in person or by proxy. All proxies shall be in writing, and in the case of proxies for the annual meeting, they shall be delivered to the secretary at least five (5) days prior thereto. Proxies for special meetings of the association must be of record the secretary at least two (2) days prior to such meeting. In voting for members of the Board of Directors, cumulative voting is allowed. In all other matters, cumulative voting shall not be allowed.

## 12. RESOLUTION OF DISPUTES

12.1 Purpose. In order to promote homogeneity of ownership, democratic self-rule by the association, uniformity and stability in operation, and timely and appropriate resolution of grievances and disputes, there shall be established a Grievance and Disciplinary Committee.

12.2 Agreement of association members. By becoming a member of the BLUE HERON CONDOMINIUMS, AN EXPANDABLE CONDOMINIUM Owners Association, Ltd., a unit owner agrees to submit to the Grievance and Disciplinary Committee any dispute which may arise between such a person and any other owner or occupant of a condominium unit, the BLUE HERON CONDOMINIUMS, AN EXPANDABLE CONDOMINIUM Owners Association, Ltd., BLUE HERON CONDOMINIUMS, AN EXPANDABLE CONDOMINIUM Board of Directors, subcommittee(s), or officers which cannot be resolved between the concerned parties in bona fide private negotiations. A unit owner must exhaust the means provided in this section for the resolution of disputes before resorting to a court of law in all matters concerning the internal affairs of the Association.

12.3 Organization. The Grievance and Disciplinary Committee shall consist of three (3) members of another local condominium association. No member of the Grievance and Disciplinary Committee shall serve as an officer of the BLUE HERON CONDOMINIUMS, AN EXPANDABLE CONDOMINIUM Owners Association, Ltd., during the time he is a member of the Grievance and Disciplinary Committee.

12.4 Appointment. Members of the Grievance and Disciplinary Committee shall be appointed by the officers of the Association. Members of such committee shall serve for a term of two (2) years; provided, however, that two (2) of the initial members of the Grievance and Disciplinary Committee appointed by the first officers of the Association shall serve for initial terms of (2) years and one (1) of the initial members of the committee shall serve for an initial term of one (1) year. Whenever there shall occur a vacancy on the Grievance and Disciplinary Committee due to death, resignation, or other cause, the officers of the association shall appoint a successor member to serve for the unexpired term.

## 12.5 Commencement of Grievance Action

12.5.1 Written complaint. A grievance between two or more unit owners, or between a unit owner or owners and the BLUE HERON CONDOMINIUMS, AN EXPANDABLE CONDOMINIUM Owners Association, Ltd., Board of Directors, or officers, shall be submitted to the Grievance

and Disciplinary Committee along with a filing fee of \$50.00 after bona fide efforts have been made by the concerned parties to reconcile the differences between them through private negotiations and through the arbitration effort of the condominium manager. A grievance shall be filed with the committee by preparing and submitting to the committee a written complaint naming the parties involved and stating the facts that form the basis of the grievance. As evidence that bona fide efforts have been made by the concerned parties to resolve the differences between them, the moving party shall also file with the committee at the time a grievance complaint is filed, an affidavit signed by the moving party and the condominium manager setting forth in detail the nature of the efforts previously made to reconcile the differences between the concerned parties.

12.5.2 Notice. Within three (3) days of the date on which the written complaint is filed with the Grievance and Disciplinary Committee, the moving party will serve a copy of the complaint and notice of grievance upon the opposing party. The notice of grievance shall contain the following:

- a. The names of the parties to the grievance.
- b. A statement that a copy of the complaint is being served therewith which explains the nature of and facts concerning the grievance.
- c. A statement that the Grievance and Disciplinary Committee will conduct a hearing into the grievance and will render a decision in written form based upon written testimony and other evidence submitted by the parties involved.
- d. A statement the parties will have an opportunity to confront and cross-examine advance witnesses through depositions and written interrogatories.

12.6 Evidence gathering procedures. The Grievance and Disciplinary Committee will render decisions based upon evidence submitted to the committee by the parties involved in a grievance action. Parties will be required to submit their evidence in the form of written documents which may be derived from depositions, written interrogatories, and other sources.

12.6.1 Depositions. No sooner than seven (7) days after and for a period of fourteen (14) days from the date of commencement of a grievance action, and party desiring to take the depositions of any person shall give five (5) days notice in writing to every party to the action and to the person who is to be deposed. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined. The committee may, for cause shown, enlarge or shorten the period of time for taking depositions. The deposition shall be taken before one of the officers of the association. In no case shall such officer be a member of the Grievance and Disciplinary Committee. The officer before whom the deposition is to be taken shall put the witnesses on oath and shall personally, or be someone acting under his direction and in his

presence, record the testimony of the witness. If requested by one of the parties, the testimony shall be transcribed, the costs thereof to be born by the party requesting the transcription. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings shall be noted by the officer upon the deposition.

12.6.1a Submission to witness: changes; signing. When the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found, or refuses to sign. If the deposition is not signed by the witness within thirty (30) days of its submission to him, the officer shall sign it and state on the record of the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless the committee holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

12.6.1b Certification and filing by officer; exhibits; notice of filing. The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. He shall then securely seal the deposition in an envelope endorsed with the title of the action and marked "Deposition of (here insert name of witness)" and shall promptly file it with the committee.

Documents and things produced for inspection during the examination of the witness shall, upon the request of a party, be marked for indemnification, and annexed to and returned with the deposition, and may be inspected and copies made by any party, except that (1) the person producing the materials may substitute copies to be marked for identification, if he affords to all parties fair opportunity to verify the copies by comparison with the originals, and (2) if the person producing the materials request their return, the officer shall mark them, give each party an opportunity to inspect and copy them and return them to the person producing them, and the materials may then be used in the same manner as if annexed to and returned with the deposition. Any party may move for an order that the original be annexed to and returned with the deposition to the committee, pending final disposition of the action.

Upon payment of reasonable charge therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

The party taking the deposition shall give prompt notice of its filing to all other parties.

12.6.2 Interrogatories to parties. Any party may serve upon any other party written interrogatories to be answered by the party served. Interrogatories may be served upon the moving party after commencement of the action and upon any other party with or after service of the notice and compliant upon that party.

Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers and objections are to be signed by the person making them. The party upon whom the interrogatories have been served shall serve a copy of the answers and objections, if any, within fifteen (15) days after service of the interrogatories, except that a defendant may serve answers or objections within twenty (20) days after service the summons and complaint upon the defendant. The committee may allow a shorter or longer time. The party submitting the interrogatories may move for an order with respect to any objection or other failure to answer an interrogatory.

12.7 Method of decision-making. The decisions of the Grievance and Disciplinary Committee shall be based on the written evidence which is timely and properly filed with the committee by the parties to a grievance action. Only evidence which meets the requirements of relevancy and materiality as set forth in the then current Wisconsin Rules of Evidence shall be used by the committee in arriving at its decisions in grievance actions. After having read and evaluated the evidence filed with the committee, the members of the committee shall propose possible solutions to the dispute between the concerned parties. The two best proposed solutions shall be voted upon in a secret ballot held between five (5) members of the committee. Whichever solution receives majority of the votes cast in the secret ballot shall be the decision of the committee. The Grievance and Disciplinary Committee shall arrive at a final decision in a grievance action timely and properly brought before it in no more than twenty-one (21) days following the date on which all evidence has been duly submitted to the committee by the parties involved in such grievance action.

Each decision of the Grievance and Disciplinary Committee shall be announced to the condominium membership no later than thirty (30) days after such decision describing the conduct or association ruling that has been disputed, the decision reached by the committee concerning the dispute, and the reasons of the committee for reaching such a decision shall be produced by the committee and submitted to the secretary of the association. The secretary shall maintain a file containing all of the decisions of the Grievance and Disciplinary Committee. Such file shall be open to the inspection of the association members, members of the Board of Directors, and officers of the association on regular business days and during regular business hours.

### 13. NOTICES, WAIVER OF NOTICE

Any notice permitted or required to be delivered, as provided herein, may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to be delivered twenty-four (24) hours after a copy of the same has been deposited in the U. S. Postal Service, postage prepaid, return receipt requested. Notice to unit owners shall be addressed to each unit owner at the address given by such unit owner to the Board of Directors for the purpose of service of such notice to the unit of such unit if no such address has been given to the Board of Directors. Such address may be changed from time to time by notice in writing to the Board of Directors. Notice to the Board of Directors shall be addressed to: 2500 Washington Street, Manitowoc, WI 54220. Any unit owner may at any time waive notice required to be given under these Bylaws, or by statute or otherwise. The presence of a unit owner in person at any meeting of the unit owners shall be deemed such waiver.

### 14. NO WAIVER

The failure of the Board of Directors or its contractors to insist, in any or more instances, upon the strict performance of any of the terms, covenants, conditions, or restrictions of the Declaration or Bylaws, or to exercise any right or option herein contained, or to serve any notice or to institute any action shall not be construed as a waiver or relinquishment, for the future, of such term, covenant, condition, or restriction; but such term, covenant, condition, or restriction shall remain in full force and effect. The receipt and acceptance by the Board of Directors or its contractor of the payment of any assessment from a unit owner, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by the Board of Directors of any provision hereof shall be deemed to have made unless expressed in writing and signed by the Board of Directors.

### 15. AMENDMENT OF BYLAWS

These Bylaws may be amended by a majority affirmative vote of the association at a meeting duly called for such purpose. Upon such an affirmative vote, the Board of Directors shall acknowledge the amended Bylaws, setting forth the fact of the required affirmative vote of the unit owners and the amendments shall be effective upon recording.

### 16. SEVERABILITY

The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

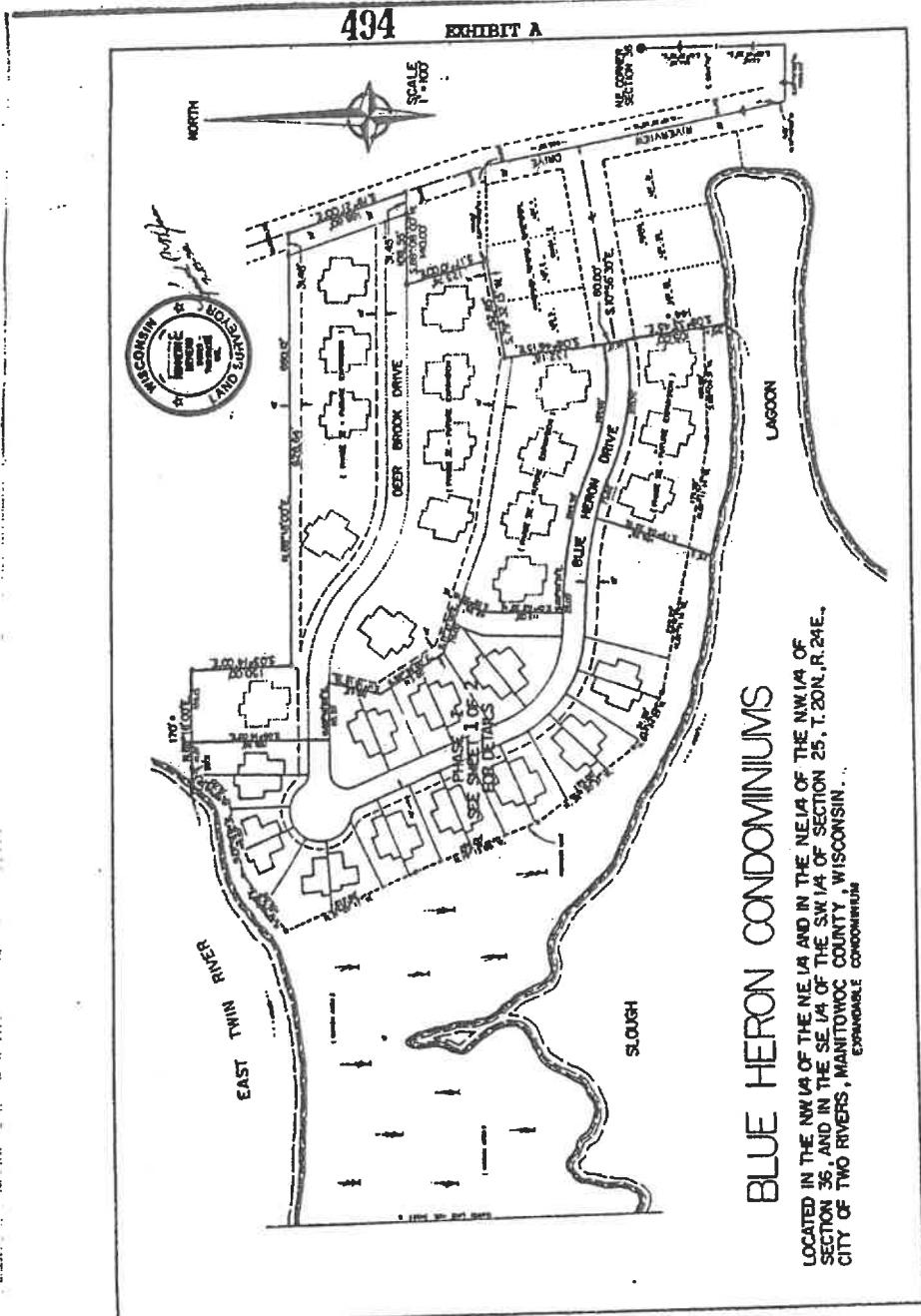
### 17. CAPTIONS

The captions hereof are inserted only as a matter of convenience and for reference and in no way to define, limit or describe the scope of these Bylaws nor the intent of any provision hereof.

18. EFFECTIVE DATE

The Bylaws shall take effect upon recording of the Declaration of  
BLUE HERON CONDOMINIUMS, AN EXPANDABLE CONDOMINIUM, to which these are  
an Exhibit.







## Exhibit C

## ESTIMATED CONDOMINIUM ASSOCIATION FEES

FROM JUNE 1, 1992 TO JUNE 1, 1993

BLUE HERON CONDOMINIUM,  
AN EXPANDABLE CONDOMINIUM

Two Rivers, Wisconsin

Based on 4 Units

Lawn Care and Snow Removal . . . . .	\$1248.00
Insurance . . . . .	700.00
Legal Fees . . . . .	0.00
Management and Accounting . . . . .	0.00
Maintenance and Repairs	
Trim Painting . . . . .	100.00
Private Road Upkeep . . . . .	100.00
Reserve for Replacement	
A Roof Replacement 20 yrs @ 5000/building . . . . .	500.00
B Black Top Replacement 20 yrs (48,640.00 + 20 yrs + 56 units x 4 units)	175.00
Property Tax on Common Areas . . . . .	221.93
	<hr/>
	\$3044.93

Annual Per Unit Fee	
Unit 101 = 25% of Total . . . . .	\$761.23
Unit 102 = 25% of Total . . . . .	\$761.23
Unit 105 = 25% of Total . . . . .	\$761.23
Unit 106 = 25% of Total . . . . .	\$761.23

Monthly Per Unit Fee	
Unit 101 = \$63.44	
Unit 102 = \$63.44	
Unit 105 = \$63.44	
Unit 106 = \$63.44	

Property Taxes: would be payable by the individual unit owner, for their unit.

EXHIBIT D

DESCRIPTION OF PHASE I BLUE HERON CONDOMINIUMS

A tract of land located in the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 25, T. 20 N., R. 24 E., and in the NW $\frac{1}{4}$  of the NE $\frac{1}{4}$  and the NE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 36, T. 20 N., R. 24 E., described as follows:

Commencing at the NE corner of said Section 36; thence S. 1° 52' 30" E. along the centerline of S.T.H. 42, 564.70 feet; thence continue along said centerline S. 0° 44' 30" E., 411.46 feet; thence S. 87° 51' W. along the North line of Charles Sayers Subdivision No. 4 (centerline of North Ave.) 1980.86 feet to the centerline of Riverview Drive; thence N. 14° 40' W. along said centerline 9.51 feet; thence continue along said centerline N. 12° 26' 30" W., 686.20 feet; thence S. 87° 45' W., 144.60 feet; thence S. 79° 32' 15" W., 152.65 feet to the Northwest corner of Lot 3, Block 2 of Riverview Terrace Subdivision; thence S. 8° 46' 15" E. along the West line of said Lot 3, 132.16 feet to the Southwest corner of said Lot 3, thence S. 10° 56' 30" E., 14.00 feet to the North line of Blue Heron Drive being the point of real beginning; thence continue S. 10° 56' 30" E., 32.00 feet to the South line of Blue Heron Drive, being the point of curvature of a 389.20 foot radius curve to the right; thence Northwesterly along the arc of said curve and South line of Blue Heron Drive, 203.78 feet (chord N. 85° 56' 30" W., 201.46 feet) to the point of curvature of a 615.38 foot radius curve to the left; thence Northwesterly along the arc of said curve and South line of Blue Heron Drive, 73.68 feet (chord N. 74° 22' 17.5" W., 73.63 feet); thence S. 19° 03' 30" W., 144.59 feet to the point being the beginning of a meander line, said point being 25 feet more or less to the waters edge of the East Twin River; thence N. 81° 11' 14" W. along a meander line, 223.22 feet; thence N. 64° 24' 29" W. along a meander line, 91.50 feet; thence N. 38° 30' 37" W. along a meander line, 175.00 feet; thence 19° 13' 05" W. along a meander line, 198.00 feet; thence N. 31° 07' 17" W. along a meander line, 217.50 feet; thence N. 53° 00' 00" E. along a meander line, 106.00 feet; thence N. 73° 13' 04" E. along a meander line, 119.07 feet; thence N. 46° 45' 07" E. along a meander line, 74.00 feet to a point being the end of the meander line, said point being 20 feet more or less to the waters edge of the East Twin River (the distance from beginning to end of meander line as measured along the waters edge of the East Twin River is 1360 feet more or less as scaled from the 400 foot scale Wisconsin Department of Transportation Aerial Photograph No. 2024E25 dated 6-14-76; lake level at approximately 580.5 feet); thence N. 88° 18' 00" E., 41.87 feet; thence S. 03° 14' 00" E.; 199.98 feet to the South line of Deer Brook Drive; thence N. 88° 18' 00" E. along the South line of Deer Brook Drive, 88.50 feet; thence S. 11° 16' 15" W., 80.43 feet; thence S. 28° 56' 00" E., 113.00 feet; thence S. 71° 27' 00" E., 79.00 feet; thence S. 22° 25' 18" W., 42.24 feet; thence S. 01° 03' 30" W., 112.00 feet to the North line of Blue Heron Drive; thence S. 88° 56' 30" E. along the North line of Blue Heron Drive, 29.00 feet to the point of curvature of a 647.38 foot radius curve to the right; thence Southeasterly along the arc of said curve and North line of Blue Heron Drive, 203.38 feet (chord S. 79° 56' 30" E., 202.55 feet) to the point of curvature of a 357.20 foot radius curve to the left; thence Southeasterly along the arc of

EXHIBIT D

said curve and North line of Blue Heron Drive, 187.03 feet (chord S. 85° 56' 30" E., 184.90 feet) to the point of real beginning.

Said tract contains 219,299 square feet (5.03 acres) of land to meander line and 638,000 square feet (14.65 acres) of land more or less to waters edge.

EXHIBIT E

DESCRIPTION OF PHASE II, BLUE HERON CONDOMINIUMS

A tract of land located in the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 25, T. 20 N., R. 24 E., and in the NW $\frac{1}{4}$  of the NE $\frac{1}{4}$  and the NE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 36, T. 20 N., R. 24 E., described as follows:

Commencing at the NE corner of said Section 36; thence S. 1° 52' 30" E. along the centerline of S.T.H. 42, 564.70 feet; thence continue along said centerline S. 0° 44' 30" E., 411.46 feet; thence S. 87° 51' W. along the North line of Charles Sayers Subdivision No. 4 (centerline of North Ave.) 1980.86 feet to the centerline of Riverview Drive; thence N. 14° 40' W. along said centerline 9.51 feet; thence continue along said centerline N. 12° 26' 30" W., 686.20 feet; thence S. 87° 45' W., 144.60 feet to the point of real beginning; thence S. 79° 32' 15" W., 152.65 feet; thence S. 08° 46' 15" E., 10.36 feet; thence N. 83° 35' 00" W., 268.00 feet; thence N. 71° 27' 00" W., 192.00 feet; thence N. 28° 56' 00" W., 113.00 feet; thence N. 11° 16' 15" E., 80.43 feet to the South line of Deer Brook Drive; thence S. 88° 18' 00" W. along the South line of Deer Brook Drive, 88.50 feet; thence N. 03° 14' 00" W., 199.98 feet; thence N. 88° 18' 00" E., 108.13 feet; thence S. 03° 14' 00" E., 150.00 feet; thence N. 88° 18' 00" E., 660.12 feet to the centerline of Riverview Drive; thence S. 19° 21' 00" E. along the centerline of Riverview Drive, 188.80 feet; thence S. 88° 08' 00" W., 140.00 feet; thence S. 17° 10' 00" E., 123.74 feet to the point of real beginning.

Said tract contains 217,522 square feet (5.00 acres) of land.

## EXHIBIT F

DESCRIPTION OF 2 TRACTS BEING PHASE III BLUE HERON CONDOMINIUMS

A tract of land located in the NW $\frac{1}{4}$  of the NE $\frac{1}{4}$  and the NE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 36, T. 20 N., R. 24 E., described as follows:

Commencing at the NE corner of said Section 36; thence S. 1° 52' 30" E. along the centerline of S.T.H. 42, 564.70 feet; thence continue along said centerline S. 0° 44' 30" E., 411.46 feet; thence S. 87° 51' W. along the North line of Charles Sayers Subdivision No. 4 (centerline of North Ave.) 1980.86 feet to the centerline of Riverview Drive; thence N. 14° 40' W. along said centerline 9.51 feet; thence continue along said centerline N. 12° 26' 30" W., 686.20 feet; thence S. 87° 45' W., 144.60 feet; thence S. 79° 32' 15" W., 152.65 feet to the Northwest corner of Lot 3, Block 2 of Riverview Terrace Subdivision; thence S. 08° 46' 15" E. along the West line of said Lot 3, 10.36 feet to the point of real beginning; thence continue S. 08° 46' 15" E. along the West line of said Lot 3, 121.80 feet to the Southwest corner of said Lot 3; thence S. 10° 56' 30" E., 14.00 feet to a point on the North line of Blue Heron Drive, said point being the point of curvature of a 357.20 foot radius curve to the right; thence Northwesterly along the arc of said curve and North line of Blue Heron Drive; 187.03 feet (chord N. 85° 56' 30" W., 184.90 feet) to the point of curvature of a 647.38 foot radius curve to the left; thence Northwesterly along the arc of said curve and North line of Blue Heron Drive, 203.38 feet (chord N. 79° 56' 30" W., 202.55 feet); thence N. 88° 56' 30" W. along the North line of Blue Heron Drive, 29.00 feet; thence N. 01° 03' 30" E., 112.00 feet; thence N. 22° 25' 18" E., 42.24 feet; thence S. 71° 27' 00" E., 113.00 feet; thence S. 83° 35' 00" E., 268.00 feet to the point of real beginning.

Said tract contains 55,399 square feet (1.27 acres) of land.

A tract of land located in the NW $\frac{1}{4}$  of the NE $\frac{1}{4}$  and the NE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 36, T. 20 N., R. 24 E., described as follows:

Commencing at the NE corner of said Section 36; thence S. 1° 52' 30" E. along the centerline of S.T.H. 42, 564.70 feet; thence continue along said centerline S. 0° 44' 30" E., 411.46 feet; thence S. 87° 51' W. along the North line of Charles Sayers Subdivision No. 4 (centerline of North Ave.) 1980.86 feet to the centerline of Riverview Drive; thence N. 14° 40' W. along said centerline 9.51 feet; thence continue along said centerline N. 12° 26' 30" W., 686.20 feet; thence S. 87° 45' W., 144.60 feet; thence S. 79° 32' 15" W., 152.65 feet to the Northwest corner of Lot 3, Block 2 of Riverview Terrace Subdivision; thence S. 08° 46' 15" E. along the West line of said Lot 3, 132.16 feet to the Southwest corner of said Lot 3, thence S. 10° 56' 30" E., 46.00 feet to the South line of Blue Heron Drive being the point of real beginning; thence continue S. 10° 56' 30" E., 14.00 feet to the Northwest corner of Lot 23, Block 1 of said Riverview Terrace Subdivision; thence S. 09° 33' 45" E. along the West line of said Lot 23, 105.00 feet to a point being the beginning of a meander line, said point being 39 feet more or less to the waters edge of the East Twin River; thence S. 86° 04' 51" W. along a meander line, 169.82 feet;

EXHIBIT F

thence N. 81° 11' 14" W. along a meander line 171.78 feet to a point being the end of a meander line, said point being 25 feet more or less to the waters edge of the East Twin River (the distance from beginning to end of meander line as measured along the waters edge of the East Twin River is 340 feet more or less as scaled from the 400 foot scale Wisconsin Department of Transportation Aerial Photograph No. 2024E25 dated 6-14-76; lake level at approximately 580.5 feet); thence N. 19° 03' 30" E., 144.59 feet to the South line of Blue Heron Drive, being a point on a 615.38 foot radius curve to the right; thence Southeasterly along the arc of said curve and South line of Blue Heron Drive, 73.68 feet (chord S. 74° 22' 17.5" E., 73.63 feet) to the point of curvature of a 389.20 foot radius curve to the left, thence Southeasterly along the arc of said curve and South line of Blue Heron Drive, 203.78 feet (chord S. 85° 56' 30" E., 201.46 feet) to the point of real beginning.

Said tract contains 39,135 square feet (0.90 acres) of land to the meander line and 50,066 square feet (1.15 acres) of land more or less to the waters edge.