

II



ERIE COUNTY CLERK'S OFFICE

County Clerk's Recording Page

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Party 1:
FOXBERRY VILLAGE CONDOMINIUM II

Party 2:

Recording Fees:

Fee 1	\$70.00
Fee 2	\$1.00
COE STATE \$14.25 GEN	\$14.25
COE STATE \$4.75 RM	\$4.75
MARKOFF FEE	\$0.50

Consideration Amount:

BASIC	0
SONYMA	0
ADDL	0
NFTA MT	\$0.00
TRANSFER	\$0.00
NFTA TT	\$0.00

Total: \$90.50

STATE OF NEW YORK
ERIE COUNTY CLERK'S OFFICE

WARNING - THIS SHEET CONSTITUTES THE CLERK'S ENDORSEMENT REQUIRED BY SECTION 319&316-a (5) OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK. DO NOT DETACH. THIS IS NOT A BILL.

Interim John J. Crangle, Jr.
COUNTY CLERK

Box 104

**AMENDMENT TO DECLARATION AND BY-LAWS
(SCHEDULE E TO DECLARATION)**

There is a certain Declaration of Condominium, the **Foxberry Village Condominium II** (the Declaration) was recorded **October 24, 1988**, in the Erie County Clerk's Office in Liber 9935 of Deeds at Page 191; and ✓

WHEREAS, the By-Laws were amended by the Unit Owners pursuant to an instrument filed on June 29, 2005 with the Erie County Clerk; and

WHEREAS, the By-Laws of the Condominium were attached to the Declaration as Schedule E; and

WHEREAS, the Unit Owners wish to amend the By-Laws of the Condominium; and

WHEREAS, pursuant to Article XII of such Declaration, 67% of the Unit Owners in number and common interest agree to amend the Declaration as hereinafter set forth, at a meeting called for such purpose which meeting was held on Old day of April, 2011; and

WHEREAS, pursuant to Article X of such By-Laws, 67% of Unit Owners in number and common interest agreed at said meeting to amend the By-Laws as hereinafter set forth.

NOW, THEREFORE, the undersigned Unit Owners hereby declare that Section 9.01(c) of the By-Laws (Schedule E to the Declaration of Condominium) of the **Foxberry Village Condominium II** is amended in its entirety as follows:

- "(c) Any non-occupant purchaser who buys a Unit subject to existing tenant rights under the Offering Plan for Foxberry Village Condominium shall appoint the Condominium's managing agent or Board of Managers if there is no managing agent, as his or her agent to provide to the non-purchasing tenant any services or facilities required by law and which are not required to be furnished by the Board of Managers. At closing, the purchaser will provide a deposit to the managing agent or Board of Managers in an amount equal to two (2) months' common charges as working capital to provide such services or facilities. Upon notice that such fund has been diminished, the fund shall be replenished by such purchaser within thirty (30) days thereafter. Nothing contained herein shall require the managing agent or the Board of Managers to expend more money than the amount so deposited by the non-resident Unit purchaser.

Any sale or lease of any Unit in violation of this Section or the Rules and Regulations shall be voidable at the election of the Board of Managers. Unit Owners shall comply with the Rules and Regulations pertaining to the lease of Units. No lease of a Unit shall be for an initial term of less

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than six (6) months, and shall be in such form as supplied and approved from time to time by the Board of Managers.

Any lease of a Unit shall be in writing and shall provide for full compliance by the tenants with the Declaration, By-Laws and Rules and Regulations of the Condominium. The Owner shall be responsible for violations by such Owner's tenant and shall be subject to actions by the Board of Managers in accordance with Section 7.11 of these By-Laws.

*

In addition, in order to maintain an occupancy rate of 95% of the Units by Owners, only five (5) Units may be occupied by non-Owners; provided that no Unit being occupied by a non-Owner(s) on the date this amendment is effective (the "Effective Date") shall be required to terminate any lease or license pursuant to which such non-Owner occupies such Unit and such non-Owner may continue to occupy such Unit pursuant to the relevant lease or license. Upon vacancy of such Unit by the non-Owner occupying the Unit on the Effective Date, such Unit may only be licensed or leased to a non-Owner if less than five (5) Units in the Condominium are occupied by non-Owners."

#1606713

**CERTIFICATION OF RECEIPT OF CONSENT
OF OWNERS**

The undersigned being X all, _____ a majority of the Members of the Board of Managers of Foxberry Village Condominium II (the "Condominium") do hereby certify, pursuant to Section 12.01(d) of the Foxberry Village Condominium II Declaration recorded in the Erie County Clerk's Office in Liber 9935 of Deeds at page 191 that:

1. —Consents to the above amendment have been received from those Owners of the Units as set for the on EXHIBIT "I" attached hereto and have been filed with the Board of Managers;
2. The number of Unit Owners consenting thereto exceeds the minimum number required to amend pursuant to Section 12.01(b) of the Foxberry Village Condominium II Declaration; and
3. All Unit Owners have been given or have waived the proper notice as required by Section 12.01(a) of the Foxberry Village Condominium II Declaration.
4. No lending institutions have objected to the Amendment.

Mary A

Mary A Alexander

Ryan

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STATE OF NEW YORK)
) SS.:
COUNTY OF ERIE)

KARI A. KAUL
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
NO. 01K8006274
MY COMM. EXP. 4/22/14

On the 23rd day of August in the year 2011, before me, the undersigned, a notary public in and for said state, personally appeared Mark Mecca, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument. **MARK MECCA**

K. A. Kaul
Notary Public

STATE OF NEW YORK)
) SS.:
COUNTY OF ERIE)

KARI A. KAUL
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
NO. 01K8006274
MY COMM. EXP. 4/22/14

On the 23rd day of August in the year 2011, before me, the undersigned, a notary public in and for said state, personally appeared Mary A. Alexander, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument. **MARY A. ALEXANDER**

K. A. Kaul
Notary Public

STATE OF NEW YORK)
) SS.:
COUNTY OF ERIE)

KARI A. KAUL
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
NO. 01K8006274
MY COMM. EXP. 4/22/14

On the 23rd day of August in the year 2011, before me, the undersigned, a notary public in and for said state, personally appeared Edward Plante, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument. **EDWARD PLANTE**

K. A. Kaul
Notary Public

KARI A. KAUL
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
MY COMMISSION EXPIRES 4/21/14

STATE OF NEW YORK)
)SS.:
COUNTY OF ERIE)

KARI A. KAUL,
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
NO. 01K8008274
MY COMM. EXP. 4/22/14

On the 23rd day of August in the year 2011, before me, the undersigned, a notary public in and for said state, personally appeared Ronald Turner, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

RONALD TYRNER

K. A. Kaul
Notary Public

STATE OF NEW YORK)
)SS.:
COUNTY OF ERIE)

KARI A. KAUL,
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
NO. 01K8008274
MY COMM. EXP. 4/22/14

On the 23rd day of August in the year 2011, before me, the undersigned, a notary public in and for said state, personally appeared Molly Finnerty, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

MOLLY FINNERTY

K. A. Kaul
Notary Public

KARI A KAUL
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
MY COMMISSION EXPIRES 4/22/14

#1613218

AMENDMENT TO DECLARATION
(BY-LAWS) – SCHEDULE E TO
DECLARATION

FOXBERRY VILLAGE CONDOMINIUM II

DATED: April 26, 2011

Record and return to:
Christian J. Henrich
Damon Morey LLP
200 Delaware Avenue
Buffalo, NY 14202
(716) 858-3834

EXHIBIT "I"

FOXBERRY II: Agreeing on 5% Rental Cap

Unit #	Name
1 A	Sherilyn Thomas
2 A	Angelette Bass
3 A	Maureen McDonald
3 B	Paula Browning
4 AS	Patrick & Elsie Campbell
5 A	Diana J. Stocker
5 B	Marcia Plezia
6 AS	Salvatore & Carol LaChiusa
7 A	Judith C. VanDusen
8 AS	John Linehan
9 B	Ronald Turner
10 AS	Paul Alberti
10 BS	Lois J. Chirico
11 A	Donald F. Conley
11 B	Ann White
12 BS	Robert C. Dean
13 A	Mr. Kenneth Levy
13 B	Sharon Simon
14 AS	Karen Christiano
15 A	Jean Lauffenburger
16 AS	Kathryn O. Weagraff
17 A	Susan Korosecz
17 B	Christine Wick
18 AS	Terrance Blake
18 BS	Joel Drewniak
19 A	Kenneth & Serena Hoage
19 B	Linda Wagner
21 A	Angela Loccke
22 AS	William & Shirley Pierson
22 BS	Sandra Lee Hambleton
23 A	Janice D. Gill
23 B	JoAnn Matteliano
24 AS	Thomas Montemage
24 BS	Keith and Deborah Kelly
25 A	Edward Plante
25 B	Karen Gunsolus
27 A	Edward J. Bernas & Lucy Divirilio
29 A	Kelly A. Colegrove
29 B	Song Vega & Myung S. Lee
35 A	Mark Mecca & Stephanie Struzik
35 B	Sonia V. Prince

37 A	Lisa L. McCarthy
37 B	Michael & Sharon Hall
39 A	Jack Herzburn
39 B	Molly & Katie Finnerty
41 A	Charles & Madeline Petruzzella
41 B	D. Fetto & C. Louisos
43 A	Charles & Carol Ellis
45 B	Mary Vallone
47 A	David Siedlicki
47 B	Glenn S. Povitz
65 B	Deborah Bonvissuto
67 A	Mary Alexander
69 B	Michael & Sharon Hall
71 A	Catherine Banks
71 B	Gregory Struzik
73 B	Cynthia Dyll
75 A	Rosemarie Dermangian
75 B	Joan Fildes
77 A	Carol Jean Northup
77 B	Deborah W. Trzaska
79 A	Susan Seigel
79 B	Michelle Kurzanski
81 A	Kathy & Angie Marando
81 B	Theresa A. Kolodziej
85 A	James Horton
87 B	Sung Koh
89 B	Everett J. Lewlew
91 B	Sheila McDowell
93 B	Thomas & Marguerite Rich
95 A	Robert C. Bedigian
97 A	Paul & Rosemary Hackford
97 B	Alicia Nagel
99 A	Linda Schriver & Alfred Bingham
99 B	Ann M. Parzymieso
101 A	Paul & Joan Liptak
101 B	Shirley Schmidt
103 A	Carol Smith
103 B	David & Lisa Burgio

SCHEDULE A
DESCRIPTION OF CONDOMINIUM PROPERTY

PARCEL I

ALL THAT TRACT OR PARCEL OF LAND being situate in the Town of Amherst, County of Erie and State of New York, being part of Lot No. 64, Township 12, Range 7 of the Holland Land Company's Survey, described as follows:

BEGINNING at a point on the west line of said Lot No. 64, being also the center line of Campbell Boulevard, 1,269.88 feet north of the southwest corner of said Lot No. 64, said southwest corner being also the point of intersection of the center line of Campbell Boulevard and Dodge Road; thence North - $89^{\circ}-53'-51''$ -East, 414.48 feet; thence South - $40^{\circ}-06'-09''$ -East, 139.0 feet; thence South $00^{\circ}-14'-51''$ West, 113.0 feet; thence South $44^{\circ}-45'-09''$ - East, 165.18 feet; thence North - $89^{\circ}-53'-51''$ - East, 250.0 feet; thence South - $65^{\circ}-18'-46''$ -West, 283.64 feet; thence South - $89^{\circ}-53'-51''$ -West, 199.60 feet; thence North - $00^{\circ}-14'-51''$ -East, 178.42 feet; thence South - $89^{\circ}-53'-51''$ -West, 414.48 feet to the center line of Campbell Boulevard; thence northerly along said center line of Campbell Boulevard, 276.58 feet to the point or place of beginning.

PARCEL II

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst, County of Erie and State of New York, being part of Lot No. 64, Township 12, Range 7 of the Holland Land Company's Survey, described as follows:

BEGINNING at a point on the west line of Lot No. 64 (also being the center line of Campbell Boulevard) at the westerly terminus of a boundary line agreement recorded in the Erie County Clerk's Office in Liber 2145 of Deeds at page 374, which point is 2,267.61 feet south of the northwest corner of said Lot No. 64; thence easterly along said boundary line agreement recorded in said Clerk's Office in Liber 2145 of Deeds at page 374, 500.0 feet to the true point or place of beginning;

Thence continuing North - $89^{\circ}-53'-51''$ -East and along the easterly extension of said boundary line agreement recorded in said Clerk's Office in Liber 2145 of Deeds at page 374, 630.54 feet; thence South - $13^{\circ}-50'-27''$ -West, 216.80 feet; thence South - $07^{\circ}-36'-09''$ -East, 134.0 feet; thence South - $22^{\circ}-36'-09''$ -East, 108.83 feet; thence South - $51^{\circ}-48'-58''$ -West, 343.22 feet; thence North - $44^{\circ}-53'-51''$ -East, 180.0 feet; thence North - $00^{\circ}-06'-09''$ -West, 171.62 feet; thence North - $30^{\circ}-06'-09''$ -West, 123.09 feet; thence North - $60^{\circ}-06'-09''$ -West, 500.0 feet to the true point or place of beginning.