

**After Recording Return to:**

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**SECOND RESTATED AND REVISED DECLARATION OF  
PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
BRONZELEAF CONDOMINIUMS**

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**CERTIFICATION OF SITE AND FLOOR PLANS**

The undersigned, being a duly registered professional architect in the State of Montana, herewith certifies that, to the best of my knowledge:

The site and floor plans for BronzeLeaf Condominiums, **Exhibits A and B** attached, situated according to the official plat hereof on file and record in the office of the County Clerk and Recorder of Gallatin County, Montana, as duly filed with this Declaration, fully and accurately depict the layout and location of the Buildings, common areas, units, unit designation and dimensions as built of BronzeLeaf Condominiums and that such site and floor plans are accurate copies of the plans filed with, and approved by the city and county offices having jurisdiction to issue building permits, if any.

Date: \_\_\_\_\_

\_\_\_\_\_  
Registered Professional Architect  
Number: \_\_\_\_\_

**CERTIFICATION OF ACKNOWLEDGMENT**

The undersigned, being duly authorized agent of The Bryan Group, LLC, herewith executes the following Certification of Acknowledgment concerning BronzeLeaf Condominiums, Gallatin County, Montana.

1. I acknowledgment receipt of the Second Restated and Revised Declaration of Protective Covenants, Conditions, and Restrictions for BronzeLeaf Condominiums, the First Restated and Revised Bylaws of BronzeLeaf Condominium Homeowner’s Association, the Rules and Regulations adopted by BronzeLeaf Homeowner’s Association on \_\_\_\_\_, 2018.
  
2. I understand the above-mentioned documents may affect my interest in the real property that is the subject of a quit claim deed from McIntosh Construction, Inc. to The Bryan Group, LLC recorded as Document No. 2571388 in the records of the Clerk and Recorder’s Office of Gallatin County, Montana on February 7, 2018.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**THE BRYAN GROUP, LLC.**

\_\_\_\_\_  
BY: \_\_\_\_\_  
ITS: \_\_\_\_\_

STATE OF MONTANA     )  
  : ss  
COUNTY OF GALLATIN    )

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2018 by \_\_\_\_\_ of The Bryan Group, LLC, on behalf of whom this instrument was executed.

(seal)

\_\_\_\_\_  
Notary Public for the State of Montana

## SECOND RESTATED AND REVISED DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, AND RESTRICTIONS FOR BRONZELEAF CONDOMINIUMS

This Second Restated and Revised Declaration of Protective Covenants, Conditions and Restrictions for BronzeLeaf Condominiums (“Declaration”) is made and entered this \_\_\_\_\_ day of \_\_\_\_\_, 2018 by The BronzeLeaf Condominium Homeowners Association, Inc., whose principal place of business is in Bozeman, Montana.

This Declaration is intended to supersede and replace the following, all recorded in the records of the Office of the Clerk and Recorder of Gallatin County, Montana: Declaration and Bylaws recorded August 8, 2006, as Document Number 2237751; Amendment to the Declaration recorded December 7, 2006, as Document Number 2250425; Amendment to the Declaration recorded January 22, 2007, as Document Number 2254397; Supplemental Declaration recorded September 18, 2007, as Document Number 2279141; Correction to Supplemental Declaration recorded September 19, 2007, as Document Number 2279193; Restated and Revised Declaration recorded on March 6, 2008, as Document No. 2293511; First Amendment to the Restated and Revised Declaration recorded on September 26, 2008, as Document No. 2311386; Second Amendment to the Restated and Revised Declaration recorded on April 28, 2009, as Document No. 2328648; Third Amendment to the Restated and Revised Declaration recorded March 27, 2017, as Document No. 2575529; and Correction to Third Amendment to the Restated and Revised Declaration recorded July 31, 2017, as Document No. 2587221.

This Declaration imposes upon the Property (as defined in Section 1.18) mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Property, and establishes a flexible and reasonable procedure for the overall development, administration, maintenance, and preservation of the Property.

All the Property described in Section 2.1, and any additional property subjected to this Declaration by supplemental Declaration (as provided for in Sections 4.1 and 11.1.4), shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions that are for the purpose of protecting the value and desirability of the Property, which shall run with title to the Property. This Declaration shall be binding on all parties having any right, title or interest in the Property or any portion thereof, their heirs, successors, successors-in-title, and assigns, and shall insure to the benefit of each owner thereof.

The Property is located within the boundaries of the City of Bozeman and, therefore, the Property and its development and use are subject to the terms, covenants, and conditions set forth in the unified Development Code of the City of Bozeman, and each and every one and all the site-specific covenants, conditions, and restrictions herein set forth, reserved, and contained.

**Article 1.**  
**Terms and Definitions**

**1. Terms and Definitions.** The terms employed in this Declaration and Exhibits to this Declaration shall generally be given their natural, commonly-accepted definitions, unless otherwise specified. All words or phrases shall be taken to include the singular or plural, according to context, and shall include the female, male, or neutral gender as may be applicable. Capitalized terms shall have the meaning given them in the Unit Ownership Act --- Condominiums, Mont. Code Ann. §§ 70-23-101 *et seq.*, unless a more particular provision of this Declaration requires a different one. Certain capitalized terms shall be defined as set forth below:

- 1.1. **Act.** The Unit Ownership Act—Condominiums found at Mont. Code Ann. §§ 70-23- 101 *et seq.*, as may be amended by the Montana Legislature from time to time.
- 1.2. **Association.** The BronzeLeaf Condominiums Home Owners Association, Inc., a Montana non-profit corporation, its successors and assigns.
- 1.3. **Articles of Incorporation or Articles.** The Articles of Incorporation of BronzeLeaf Condominium Home Owners Association, Inc., as filed with the State of Montana, and as may be amended from time to time.
- 1.4. **Board of Directors or Board.** The body responsible for administration of the Association, selected as provided for in the Bylaws and serving as the board of directors under Montana corporate law.
- 1.5. **Building(s).** The multiple unit building or buildings comprising a part of the property containing the units shown and located on the Site Plan and floor plans attached hereto as Exhibits A and B, respectively, and by this reference made a part hereof.
- 1.6. **Bylaws.** The Bylaws promulgated by the Association, as amended from time to time.
- 1.7. **Common Elements.** The BronzeLeaf Condominiums consist of Units that are separate parcels of real estate individually owned and of common property (“common elements”) that may be used by the Owners. The common elements are either general common elements or limited common elements.
  - 1.7.1. **General Common Elements.** All those elements which are for the use of all the residential Owners, their guests, tenants, and invitees. The general common elements include, but are not limited to, the land and all improvements, devices and installations existing for the common use.

General Common Elements include, without being limited thereto, and any item herein not reserved as Limited Common Elements:

- 1.7.1.1. The Land;
- 1.7.1.2. Private Drives;
- 1.7.1.3. Paths;
- 1.7.1.4. Outside Parking Areas;
- 1.7.1.5. Unassigned Covered Parking Areas;
- 1.7.1.6. Common Water System and Meter;
- 1.7.1.7. Common Lighting System;
- 1.7.1.8. Landscaping and Plantings;
- 1.7.1.9. Sidewalks;
- 1.7.1.10. Stairways;
- 1.7.1.11. Outside Lighting Systems and Fixtures that are not for the use of a specific Unit;
- 1.7.1.12. All Devices or Installations for Common Use;
- 1.7.1.13. All General Utilities that are not reserved for the use of a specific Unit, including: Sewer; Water; Electrical; Gas; Telephone; Other Utility or Service Lines; and Easements to Units for all such lines, wiring, ducts and the like above referred to for the furnishing of utility and other services or systems to the other Units and to common property and easements of support in every portion of a Unit which contributes to the support of the improvements.

**1.7.2. Limited Common Elements.** The limited common elements include such common property that is reserved for the use of the owners, and their guests, tenants, and invitees of the Unit(s) to which the common property is appurtenant, to the exclusion of other Units. The common property that is specified and determined to constitute a Limited Common Element for the sole use of a Unit(s), includes, but is not limited to:

- 1.7.2.1. All the external and internal structural and non-structural elements of a Unit, including the: foundations; basements; floors; exterior walls; ceilings; roofs; decks; patios; entrances; and exits of a particular Unit;
- 1.7.2.2. All items that pertain to the use of a particular Unit including: fixtures; attachments; machines; equipment; utility and service lines; outside lighting systems and fixtures; and

- 1.7.2.3. The portion of a Parking Structure which corresponds to the Building's Address, Unit number, and is reserved for that Unit's use.
- 1.8. **Common Expenses.** Expenses attributable to the administration, maintenance, repair or replacement of General or Limited Common Elements, established as a common expense by the Board of Directors, and declared common by the Unit Ownership Act or this Declaration, amendment thereto, or Bylaws.
- 1.9. **Condominium.** The ownership of single Units with Common Elements located on the Property submitted to the provisions of the Unit Ownership Act—Condominiums.
- 1.10. **Condominium Documents.** The Declaration, the Bylaws, together with any attached exhibits or referenced documents, and all supplements and amendments to the same.
- 1.11. **Developer.** The Bryan Group, LLC and its successors and assigns.
- 1.12. **Eligible Mortgage Holder.** The holder of a first mortgage on a Unit who has submitted a written request that the Association notify it of any proposed action requiring the consent of a specified percentage of eligible mortgage holders.
- 1.13. **Limited Expenses.** Expenses attributable to the maintenance, repair, and replacement of limited common elements that are expenses only for Owners of Units within the Building for which such expenses are incurred. However, except as otherwise set forth herein, the Association, through its Board of Directors, shall assume the normal maintenance, repair, and replacement of limited common elements outside of a Unit such as parking areas, landscaping, yard and walkways, and assess all the Owners for the costs in accordance with their allocated interest in the general common elements. Damage caused by an individual Owner shall be repaired and assessed to the individual Owner.
- 1.14. **Occupant(s).** The inhabitant or inhabitants of a Unit, who may be an Owner or authorized lessee, or a guest of an Owner or authorized lessee.
- 1.15. **Owner.** One or more Persons who hold the record title, or fractional portion, to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a contract of sale and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.



- 1.16. **Parking Structure.** A multi-stall garage or multi-stall carport located on the Property. A Parking Structure is a Limited Common Element as defined in Section 1.7.2.
- 1.17. **Person.** A natural person, a corporation, a partnership, a trust, or any other legal entity.
- 1.18. **Primary Voter.** One eligible Owner of a co-owned or entity-owned Unit that has written permission to represent a Unit's co-owners or entity for any voting measure. Representation must be submitted as outlined in Section 4.3, below.
- 1.19. **Property or Properties.** The land, buildings, common elements, improvements, facilities, and structures on the land, and all easements, rights and appurtenances, belonging to the land that are subject to this Declaration, as more specifically described in Section 2.1. Property excludes an Owner's personal property.
- 1.20. **Unit(s).** The separate condominium units of BronzeLeaf Condominiums within a building located on the Property and consisting of one or more rooms occupying one or more floors, that is intended for any type of independent use, has a direct exit to a hallway, pathway, sidewalk, street or roadway, or a common area leading to a pathway, street or roadway, and is capable of being owned as a separate parcel of real property under the Unit Ownership Act. Units may be Owner-owned or Investor-owned.

**Article 2.**  
**Property Rights**

- 2.1. **Description.** The real property, submitted to the Unit Ownership Act and including in the condominium, is described as follows:

TRACT 1 OF COS #985 LOCATED IN THE NW ¼ OF SECTION 10, T2S, R5E  
OF PMM, GALLATIN COUNTY, MONTANA

Together with the tenements, hereditaments, appurtenances, easements for ingress and egress, sewer and water systems, telephone, power, other utilities, and cable services to each Building and Unit, as shown or delineated on the subdivision plat or certificate of survey, Site Plan, and other documents filed or recorded with the Clerk and Recorder of Gallatin County, Montana, and reserving the non-exclusive use thereof to the Owners and a general easement therefor to the Association.

Further reserving unto the Association, and its successors and assigns, non-

exclusive easements and rights of way for ingress and egress, and utilities, and right to permit construction, use, and conveyance of present and future Buildings and Units located on the Property; along with right, during and for any purpose concerning the construction of any Building and the finishing of any Unit or proposed Unit therein, to use, access, and go upon the General Common Elements for access, deliveries, and the placement or temporary parking of vehicles, materials, and equipment.

The real property submitted to the Act is subject to existing easements, covenants, Articles of Incorporation, Bylaws, terms, conditions, obligations, disclosures, reservations, restrictions, dedications, conditions shown and delineated in the Condominium Documents, plats, Site Plans, and other documents filed or recorded with the Clerk and Recorder of Gallatin County, Montana, or the state of Montana, and subject to applicable zoning ordinances and land use restrictions, if any, laws and regulations of the state of Montana and the United States of America, and also subject to taxes, assessments, and charges levied by Gallatin County, improvement districts, sewer and water districts, fire districts, and any other district or taxing authority if any.

The provisions of this Declaration shall be construed to be covenants running with the land, including the Buildings, Common Elements, improvements, easements, appurtenances, and Units, and shall be binding upon each Owner, their heirs, successors, personal representatives and assigns, as long as this Declaration is in effect.

**2.2. Ownership of Unit.** Each Unit, together with the appurtenant undivided interest in the Common Elements shall together comprise a Unit, shall be inseparable, and may be conveyed, leased, rented, devised, or encumbered as a Unit as a fee simple interest in a parcel of real property.

**2.3. General Description of Buildings and Units**

**2.3.1. Site Plan and Description.** The Site Plan and description shows the five (5) existing Buildings, and two (2) new Buildings to be built as described in Article 11, identified by a street address (all of which are in Bozeman, Montana 59718), along with a designation to the Units to be contained in each Building and the number of levels in each Building, as follows:

Bldg #	Address of Building	# of Levels	Basement	# of Units
1.	4665 Bembrick	3	Yes	12
2.	4673 Bembrick	3	Yes	12
3.	4689 Bembrick	3	Yes	12
4.	4635 Bembrick	3	Yes	12
5.	4645 Bembrick	3	Yes	12
6.	4615 Bembrick	3	Yes	12
7.	4643 Bembrick	2	Yes	8

Additional Structures as set forth on the Site Plan include:

- Three (3) Garage Structures
- Six (6) Carport Structures
- One (1) exercise room

The Site Plan is attached hereto as Exhibit A.

### 2.3.2. Unit Designations

2.3.2.1 In each Building, the Units are numbered by building level and Unit, consecutively (e.g., “4665 Bembrick, #2A” designates Unit A on the second level of Building 4665).

2.3.2.2 Levels begin with the lowest level floor being one (1), increasing as floor levels rise.

2.3.2.3 Units are labeled beginning on the Unit farthest away from and to the right of the center of the building as Unit A. Unit B will be across the common hallway. Unit C will be closest to the parking lot on the right. Unit D will be the remaining Unit, across the common hallway from Unit C.

2.3.3. **Unit Boundaries.** Each Unit consists of the area between the interior surfaces of its perimeter walls (including windows, sliding doors or windows, and the interior surface of the exterior door(s)), and between lower surface of the ceiling and the upper surface of the concrete slab or floor. In all cases, a Unit shall include, and be defined by, the surfaces referred to and shall include any non-load-bearing partitions within. The area of Each Unit is approximately 1,020 – 1,040 ft<sup>2</sup>, as outlined in Exhibit B.

2.3.4. **Particulars of Units; Certificate of Architects.** Attached to this Declaration as Exhibit B is the floor plan and layout for the Units that are contained in Buildings 1 through 7.

### **Article 3.** **Use of Common Elements**

3.1. **Generally.** Unless otherwise provided in the Condominium Documents, each Owner may use the Common Elements in accordance with the purposes for which they are intended, but may not hinder or encroach upon the lawful rights of the other Owners.

The Owner shall have the right to hook up to and use utility lines and facilities, cable lines, and other services installed in the utility easements and in the common areas for the Owner's use, subject to abiding by the regulations and terms of the service provider for the hookup and use of such services, and the payment of costs and fees of the service provider.

Public or private utility providers; sewer and water service providers; communication, telephone, cable television, and video providers who provide services to the Unit shall have access to the utility easements as shall be reasonable and necessary of providing their services to the Unit and for installation, repair, replacement and maintenance of the lines and equipment for their respective services.

3.2. **Interior and Exterior Maintenance and Repair.** Each Owner shall have the exclusive right to paint, repaint, tile, wax, paper, panel, carpet, brick or

otherwise maintain, refinish and decorate the interior surfaces of the walls, ceilings, floors, and doors within the Unit, provided such Owner pays the cost thereof and does not affect the structural integrity, safety, or change the appearance, materials, or style of the exterior of the Unit, Building, or Common Element in which the Unit is located, without the written approval of the Association. The Association shall maintain, paint, repair and replace the exterior of the Buildings and Common Elements as necessary, and shall assess the Owners according to the terms of this Declaration.

#### **Article 4.**

#### **Ownership and Voting Rights – Use of Buildings and Units**

**4. Ownership.** The Owner of each Unit shall be entitled to the exclusive ownership, use and possession of his or her Unit and shall own, as an appurtenance, an undivided interest in the lands and Common Elements in the percentage expressed herein. Such interest shall be the same in both the Limited Common Elements and the General Common Elements, notwithstanding any exclusive right of use of any Limited Common Element that may appurtenant to a particular Unit.

**4.1. Proportional Interest of Undivided Ownership in Common Elements.** Owners that have Units which are complete and certified for inhabitation by an authority having such jurisdiction, have a fractional ownership and interest of one (1) of the total number of Units meeting such requirements.

Subject to the Developer's right to construction additional units or buildings as set forth in Article 11, the Association reserves the right to file a supplemental declaration increasing or decreasing the fractional interest of undivided ownership in the land and other Common Elements of each Owner to the appropriate pro rata share of the same, based on the number of Units ultimately constructed on the Property.

**4.2. Attorney-in-Fact.** The Association, acting through its Board, is irrevocably appointed attorney-in-fact for each Owner to manage, control, and deal with the interests of such Owners in the Common Elements so as to permit the Association to fulfill all of the Association's duties and obligations and to exercise all of its rights, as provided in the Condominium Documents. The Association is designated and appointed to represent the Owners in any related proceedings, negotiations, settlements, or agreements.

**4.3. Voting Rights.** The initial total number of votes outstanding and entitled to be cast by the Owners is equal to the current number of Units built and allowed to be built as set forth in Article 11.

**4.3.1.** The Owner or Owners (collectively) of each Unit, or the

Owner or Owners of the right to construct each unit, as such and as an Association member, shall be entitled to cast one (1) vote for each Unit owned.

4.3.2. If a Unit is co-owned by more than one (1) individual, or if it is owned by a legal entity, all owners or directors must sign and submit (to the Association Secretary), a legally binding document identifying a Primary Voter or designee, which remains as such until another of said documents is on file with the Association identifying a new Primary Voter and removing the previously designated Primary Voter. Said document must contain full legal names of all co-Owners or directors of the entity, full name of the designated Primary Voter and preference of receipt of voting materials: written or electronic. No votes from non-Primary Voters will be valid without a written, signed proxy delivered by the Primary Voter to the Association prior to polls closing. The proxy may be delivered to the Association Secretary in person or by mail, email, or facsimile.

4.3.3. All votes cast by members collectively owning one (1) Unit shall be cast as one (1) vote and may not be divided. The vote of the Primary Voter shall be accepted.

4.4. Use. The Units and Common Elements shall be occupied and used as follows:

4.4.1. **Intended Use of Units.** Units designated as residential shall be used for single family residential purposes only. Under no circumstances may more than one family reside in a Unit at one time.

4.4.1.1. The Owner or an authorized lessee must be one of the members of the family residing in the Unit.

4.4.1.2. Guest means a person who has a primary residence other than the Unit.

4.4.1.3. Unless otherwise determined by the Board, a person occupying a Unit for more than thirty (30) consecutive days shall be deemed a lessee, not a guest, regardless of whether a written lease exists or consideration is exchanged.

4.4.1.4. Any rental or lease is subject to the conditions, provisions, covenants, and restrictions contained in the Condominium Documents. Restrictions concerning the

leasing of Units are discussed in Article 8, below, and in the rules and regulations that may be adopted by the Board from time to time.

- 4.4.2. Obstruction of Common Elements.** Except as provided elsewhere in the Condominium Documents, there shall be no obstruction of the Common Elements nor shall anything be constructed or stored in or on the Common Elements without prior written approval of the Board of Directors. This restriction shall not apply to installation and maintenance of the central improvement facilities and landscaping or irrigation systems, and shall not apply to the construction, repair, maintenance, reconstruction, replacement, or additions to the Common Elements and Buildings and Units as permitted by the Condominium Documents. Each Owner shall be obligated to maintain and keep in safe condition, good order and repair his or her Unit, including Limited Common Elements designed for exclusive use of the Unit. If the Owner fails to maintain and keep in safe condition, good order and repair his or her Unit, after thirty (30) days' written notice by the Association to the Owner of such failure, the Association may make the repairs or maintenance, and charge and assess the Owner for the costs thereof.
- 4.4.3. Common Area Use.** Walkways, yards, landscaped areas, driveways, roads, parking areas, the Fitness Center, decks, porches and other common areas shall not be used for purposes other than for which they are reasonably intended. Use of common areas may not hinder or encroach upon the lawful right of other users. No bicycles, vehicles, chairs or similar items may be left unattended on or about the common area, unless otherwise designated by the Association.
- 4.4.4. Emergency Access to Units.** The Association may maintain a key to each Unit for emergency purposes. Keys will be kept in a lockbox secured by Property Manager or other secure location designated by the Board.
- 4.4.5. Insurance.** Nothing shall be done or kept in any Unit or Common Element that will substantially increase the rate of insurance on the Building, or contents thereof, without the prior written approval of the Association. No Owner shall permit anything to be done or kept in his or her Unit, or in or on the Common Elements, which will result in the cancellation of insurance on the building, or contents thereof, or which is in violation of any law. No waste will be permitted in or to the Common Elements.

- 4.4.6. **Exterior Façade and Window Decoration.** Board may adopt rules and regulations governing the use of items that may be affixed to the exterior of a Building, such as, signs, flags, awnings, canopies, television dishes, air conditioning units and similar items.
- 4.4.7. **No Nuisance.** No nuisances shall be allowed upon the Property, nor shall any use or practice be allowed which is a source of abnormal annoyance to the Owners or approved lessees, or which interferes with the peaceful possession and proper use of the Property by its Owners or approved lessees. All valid laws, ordinances, and regulations of all governmental bodies having jurisdiction shall be observed.
- 4.4.8. **Integrity of Building.** Nothing shall be done in any Unit or in, on, or to the Common Elements that impairs the structural integrity of a Building, or would structurally change a Building, except as otherwise provided in the Condominium Documents. Nothing shall be done in any Unit or in, on or to the Common Elements that violates a City Fire Code or City Building Code.
- 4.4.9. **Additional Structures.** Fencing, screening, sheds and other outbuildings shall not be allowed unless approved in writing by the Board of Directors.
- 4.4.10. **Pets.** Pets shall be allowed to be kept in Units and Buildings subject to any limitations or regulations outlined in rules and regulations that may be adopted by the Board from time to time, including establishing additional assessments for keeping pets on the Property and penalties or fines to enforce this provision. Any pet kept in a Unit must not be a nuisance or interfere with the peaceful possession and proper use of the Property by its Occupants. All pets must be up-to-date on all vaccinations or licenses as required by the City of Bozeman. Unpaid assessments or fines, as well as the Association's costs and attorney's fees for collection and enforcement of any fine or pet removal order, shall become a lien upon a Unit. Enforcement of the lien may be accomplished in the same manner as any other assessment lien.
- 4.4.10.1. No pets or animals of any kind may be kept on the Property or in any Unit or Parking Structure except:
- 4.4.10.1.1. One (1) dog may be kept in any basement



- level Unit (designated as 1A, 1B, 1C, and 1D);
- 4.4.10.1.2. One (1) dog weighing 40 pounds or less may be kept in any upper level Unit (designated as levels 2 or 3);
  - 4.4.10.1.3. Up to two (2) cats may be kept in any Unit;
  - 4.4.10.1.4. Birds, gerbils, hamsters and similar small, tame rodents may be kept within any Unit.
  - 4.4.10.1.5. Only the domestic household pets are permitted denoted herein are permitted on the property, and in no event, are exotic species permitted on the property.

Owners shall inform the Board Secretary, in writing, of any dogs living in a Unit within ten (10) business days of acquiring said pet. Such notice shall include the following information: dog's name and breed; Unit number in which the dog resides; a brief description of the physical characteristics of the dog; and the date the dog was acquired. Owners with pets shall secure personal liability insurance coverage that accounts for the ownership of that pet.

- 4.4.10.2. The Board may make reasonable accommodations to the pet limitations set forth above, on a case-by-case basis. The accommodations shall be done only in writing. Occupants who desire an accommodation by the Board must apply to the Board in writing for the accommodation within a reasonable time prior to the date the requested accommodation is to commence.
- 4.4.10.3. Pets may not run free, unleashed or unattended, outside of the Unit.
- 4.4.10.4. Owners shall immediately and thoroughly clean up after a pet anywhere on the Property. Owners shall be responsible for any repairs or cleaning deemed necessary by the Board for damage directly caused by an Owner's or lessee's pet.
- 4.4.10.5. Nuisance animals are not permitted on the Property. A nuisance pet is defined as a pet that unreasonably disturbs the peace and tranquility of the neighborhood, and may include, but is not limited to the following:
  - Running at large;

- Incessant barking, howling or making other noises;
- Chasing or snapping at people, other pets, or vehicles;
- Turning over garbage receptacles;
- Damaging real or personal property.

4.4.10.6. If in a given calendar year, an Owner violates the provisions of this Section on two (2) or more occasions, or the Association receives two (2) or more written complaints from other Owners, the Board may, by majority vote and after notice to the offending Owner and a hearing on the issue pursuant to Sections 12.8, require the Owner to permanently remove the offending pet from the Property.

4.4.11. **Smoking.** Due to the irritation and known health risks of exposure to second-hand smoke, increased risk of fire, and increased maintenance and cleaning costs, all forms of smoking are prohibited on the Property, including: inside all Units and Parking Structures; on deeded or exclusive use patios and balconies; and on any part of the Property that is a Common Element, provided that smoking is permitted in the following areas only: areas located outside the Buildings, but not within twenty-five feet (25') of any doorway or window.

4.4.11.1. “Smoking” includes the inhaling, exhaling, vaporizing, burning or carrying of lighted or heated tobacco or any other similar, legal substance. Illegal substances are prohibited in any form.

4.4.11.2. The Board may make reasonable accommodation, as determined on a case-by-case basis, for any Occupant who has provided the Board with written notice from a licensed physician that he or she smokes as part of a medical treatment plan. The Board may make other reasonable accommodations, as determined on a case-by-case basis. The accommodation shall be done only in writing. Occupants who desire an accommodation by the Board must apply to the Board in writing for the accommodation within a reasonable time prior to the date the requested accommodation is to commence.

4.4.11.3. The Board may make rules and regulations concerning smoking on the Property, including establishing penalties

or fines to enforce this provision.

**4.4.11.4.** This covenant takes effect immediately and applies to all Units and all persons, including but not limited to Owners, lessees, Occupants, invitees, guests, and visitors.

**4.4.12. Decks and Porches, Grills.** The Board may adopt rules and regulations governing the use of decks and porches, including limitations on the use of grills and similar items.

**4.4.13. Storage.** No storage outside of a Unit, Building, or Carport shall be allowed except in Buildings constructed with the written permission of the Board for storage of Association or Owner property or contained storage area approved by the Board.

**4.4.14. Vehicles.** Except as herein provided, no semi-tractors, semi-trailers, recreational vehicles, motor homes, trailers, ATVs, trucks with a load capacity exceeding one ton, boats or rafts and/or corresponding trailers, or similar vehicles shall be allowed to be parked or remain on the Property, except as set forth in this Section. The Board may make rules and regulations governing the parking or storage of vehicles on the Property, including establishing penalties or fines for enforcing this provision, including but not limited to towing vehicles not in compliance with this provision at the owner's expense.

**4.4.14.1.** Contractors and materialmen may temporarily park trucks, trailers, and equipment on the Property so long as the truck, trailer, or equipment is being used for its intended purpose on the Property. The temporary unloading and loading of trucks and trailers on the Property by Occupants is permitted so long as the truck or trailer is not parked on the Property for more than forty-eight (48) consecutive hours or with the written permission of the Board.

**4.4.14.2.** If a recreational vehicle, boat, snowmobile, motor home, ATV, commercial vehicle, or recreational trailer is kept on the Property, it shall only be parked or stored in the Owner's designated space in an enclosed garage, with the door completely closed. Recreational vehicles, boats, snowmobiles, motor homes, ATVs, commercial vehicles, recreational trailers or similar vehicles shall not be parked or stored in a carport structure or anywhere else on the Property. No

person shall reside or live in the vehicles or trailers stored or parked in an enclosed garage. All vehicles, trailers, and other items parked or stored in a garage must be in good repair, operational, and have a current registration.

4.4.14.3. No vehicle may be parked for more than forty-eight (48) continuous hours in a non-Unit dedicated spot.

4.4.14.4. No abandoned vehicles, junk vehicles, or junk are permitted on the Property.

4.5. **Exclusive Ownership.** Each Owner shall be entitled to exclusive use and possession of his or her Unit. Such Owner may use the Common Elements in accordance with the purposes for which they are intended, so long as the use does not hinder or encroach upon the lawful rights of other Owners.

4.6. **Appurtenances to Unit Ownership and Transfer; Subdivision.**

4.6.1. **Appurtenances.** The ownership of each Unit shall include all the appurtenances, including, but not limited to, an undivided proportional interest of ownership in or liability for:

- The General Common Elements;
- The Limited Common Elements;
- The funds and surplus, if any, of the Association, and
- Except as otherwise specifically provided in this Declaration, the Common Expenses and liabilities of the Association.

Such undivided fractional interest of ownership or liability shall be identical as to each of the four aspects above named, and the amount of such fractional interest or liability shall be the fraction (as may be adjusted as provided in this Declaration) fixed pursuant to, and as set forth in, or adjusted pursuant to, Section 4.1.

4.6.2. **Encroachment Easements.** If any portion of a Common Element encroaches upon any Unit or any other portion of the Common Elements, or if any Unit encroaches upon any other Unit or upon any portion of the Common Elements upon completion of construction, or if any such encroachments shall occur thereafter as a result of shifting or settling of a Building or from alteration, repair or improvement to the Common Elements and/or as a result of repair or restoration of the Common Elements and/or as a result of repair or restoration of the

Common Elements or a Unit after damage by fire or other casualty, or as a result of condemnation or eminent domain proceedings, then in each of such events a valid easement shall exist for such encroachment and for the maintenance thereof so long as the Buildings, Common Elements and Units exist.

**4.6.3. Cross Easements.** The appurtenances shall include, so long as the Buildings, Common Elements and Units exist, easements from each Owner to each other Owner and to the Association and from the Association to the respective Owners as required, as follows:

**4.6.3.1. Ingress, Egress, and Maintenance.** Easements are reserved for ingress and egress through the common areas for access to the Units and through the common areas and the Units for purposes of maintenance, repair, replacement or reconstruction of each as authorized.

**4.6.3.2. Support.** Every portion of a Unit contributing to the support of a Building is burdened with an easement of support for the benefit of all other Units and Common Elements in or of the Building.

**4.6.3.3. Utilities and Other Services.** Easements are reserved through the Units and Common Elements for conduits, ducts, plumbing, wiring, piping, and other facilities for the furnishing of utility or other services and facilities to the other Units and common areas, provided such easements through a Unit shall be only according to the plans and specifications for a Building as and if varied during construction as permitted in this Declaration unless otherwise agreed by the Owner.

**4.6.4. Possession and Use of Unit, Including Air Space.** In addition to the fee simple ownership of a Unit, there shall be as an appurtenance an exclusive easement for the possession and use of the air or room space within the Unit and to the Limited Common Elements appurtenant to that Unit as the same exists from time to time, or as altered or reconstructed from time to time, subject to necessary and authorized easement for maintenance, repair and the like, which appurtenance shall be terminated automatically in the event of termination of the Association.

- 4.6.5. **Assignment or Transfer of Appurtenances; Severance.** The ownership of each Unit shall include and there shall pass and be transferred in the event of any transfer of ownership of such Unit as a parcel or realty or of any Owner's right, title, or interest in the Unit, whether by deed, mortgage, other instrument or otherwise than by an instrument all of the appurtenances whether enumerated and separately described or not; and no part of the appurtenant interest of any Unit may be sold, transferred or otherwise disposed of except in connection with the sale, transfer or other distribution of the Unit itself or all Units in the Condominium.
- 4.6.6. **Subdivision and Partition.** No Unit shall be subdivided; nor shall any Unit be partitioned.
- 4.6.7. **Liens.** Taxes, assessments, judgments and any other matter against an Owner which may give rise to a lien shall be a lien only against the Owner's Unit and not against any other Unit.

**Article 5.**  
**The Association**

- 5.1. **Membership.** An Owner shall automatically, upon becoming the Owner, become a member of the Association and shall remain a member of the Association until such time as his or her ownership ceases for any reason. The membership shall be limited to Owners as defined in this Declaration. However, a member may by proxy, or power of attorney, appoint another person to vote for the member.
- 5.2. **Board of Directors.** The business, property, and affairs of the Association and Condominium shall be governed, managed, and administered by a Board of Directors ("Board"), all of who must be members of the Association. Members of the Board shall be elected as set forth in Section 5.4 and the Bylaws.
- 5.3. **Function.** It shall be the function of the Association, through the Board, to:
- 5.3.1. Adopt or amend Bylaws for the governance of the Association. The Bylaws are attached hereto and incorporated herein by reference.
- 5.3.2. Make provisions for the general management of the Condominium.
- 5.3.3. Levy assessments as provided for in this Declaration, the Bylaws, and the Act.

- 5.3.4. Adopt and implement a policy for the management of the affairs of the Condominium.
  - 5.3.5. Enter into contracts and hire personnel for the management of the affairs of the Association and the maintenance and repair, or restoration of the Common Elements and common areas, and any improvements thereon.
  - 5.3.6. Implement reasonable rules and regulations as to the use by the Occupants and their guests and invitees, of the Common Elements and common areas.
  - 5.3.7. Carry insurance for the Property and collect and allocate the proceeds thereof.
  - 5.3.8. Interpret, apply, and enforce the provisions of the Condominium Documents in the event of a dispute among Owners or between an Owner and the Association.
  - 5.3.9. Assert, defend, or settle any legal claim made by or against the Association or Condominium, on behalf of the Condominium and Owners.
- 5.4. **Voting.** On all matters to be decided by the Association, unless specifically excluded by the Condominium Documents, each Owner shall have one vote per Unit and the vote of the Primary Voter shall govern in co-owned Units. Meetings of the Association shall only be conducted when a quorum is present, as defined in the Bylaws. Except as otherwise specifically provided in the Act or Condominium Documents, a majority (51%) vote of the Members present at any meeting shall be sufficient to act on matters properly brought before the Membership. Voting is further addressed in the Bylaws.
- 5.5. **Compliance with Condominium Documents.** Each Owner shall strictly comply with the provisions of the Condominium Documents and decisions and resolutions lawfully adopted by the Association, any of which may be amended from time to time.
- 5.5.1. **Acceptance.** By purchase of a Unit, an Owner accepts the Condominium Documents in full and acknowledges that all Condominium Documents are accepted and enforceable as of the date and time of closing.

**5.5.2. Failure to Comply.** An Owner's failure to comply with the Condominium Documents, or rules and regulations, and decisions and resolutions lawfully adopted by the Association, as amended from time to time, shall be grounds for an action by the Association against an Owner to recover sums due for damages or injunctive relief or both, and for reimbursement of all costs, including reasonable attorney's fees, incurred as a result of the action. Any such action shall be maintainable by the Board in the name of the Association, on behalf of the Owners, or by an aggrieved Owner where there has been a failure of the Association to bring such action within a reasonable time.

**5.5.3. No Waiver.** Failure of the Association to enforce any right, provision, covenant, or condition that may be granted to the Association by the Articles of Incorporation, Condominium Documents, or any lawfully adopted regulation or resolution, as amended from time to time, shall not constitute a waiver of the right of the Association to enforce such right, provision, covenant, or condition in the future.

**5.6. Books and Records.** The Association shall keep detailed books of Association accounts showing all expenditures and receipts of administration, which shall specify the maintenance and repair expenses of the Common Elements and any other expenses incurred by or on behalf of the Association and the Owners. Such accounts and all other Association records shall be open for inspection by the Owners and their mortgagees upon reasonable notice and during regular business hours. The Association shall prepare and distribute to each Owner a financial statement at least once per year. The Association shall maintain copies of the Condominium Documents and shall permit all Owners, prospective purchasers, and prospective mortgagees interested in the condominium to inspect the same upon reasonable notice and during regular business hours.

## **Article 6.**

### **Assessments, Expenses, Association Funds, and Transfer Fee**

#### **6.1. Assessments.**

**6.1.1. Personal Obligation for Assessments and Other Amounts.** Each Owner shall be deemed to covenant and agree to pay to the Association and be liable for all assessments, charges, fines, penalties or other amounts, to



be levied, fixed, established and collected as set forth in the Condominium Documents, and rules and regulations, or other lawfully adopted resolutions of the Board that become due while he or she is an Owner, such obligation being appurtenant to each Unit.

**6.1.2. Types or Assessments.** The Board may levy the following assessments:

**6.1.2.1. Common Assessments.** Common expenses and common profits, if any, of the Association shall be charged as a general Common Assessment to the Owners according to each Owner's percentage of undivided interest in the Common Elements in accordance with the percentages as set forth in Section 4.1. Common Expenses are enumerated in Section 6.2.1. Common Assessments may also be referred to as "Association Dues".

**6.1.2.2. Additional Assessments.** Additional Assessments may be established by the Board as set forth in rules and regulations adopted to cover expenses related to a particular activity, ownership, or for other reasons voted on by the Owners. Examples of Additional Assessments include, but are not limited to, such things as costs associated with pets on the Property and costs associated with leased Units.

**6.1.2.3. Special Assessments.** Special Assessments are assessed to prepare for, or cover, expenditures associated with Association expenses that require funding above and beyond what the Common Assessments cover. Examples of Special Assessments include, but are not limited to, such things as emergency expenses and projects duly approved by a majority (51% or above) of the Owners. The amount and duration of Special Assessments may vary.

**6.1.3. Payment of Assessments.** Common Assessments shall be billed annually and may, at the option of the Board, be paid annually or in quarterly or monthly installments. Payment for Common Assessments are due on the 15<sup>th</sup> of the month. Additional and Special Assessments may be billed and paid as set forth by the Board in the rules and regulations or resolution authorizing the same. All assessments shall be mailed on or before the 1<sup>st</sup> of each month, are due on or before the 15<sup>th</sup> of the month. Notice of an assessment may be delivered either by mail or electronic communication (based on Owner's preferred contact method), of such

assessments to the Owner(s) at the address or electronic contact information on file with the Association or, if no address is on file, at the address of the Unit. The amount of the Common Assessments assessed against each Unit shall be the personal and individual debt of the Owner thereof. No Owner may exempt him- or herself from liability for these contributions towards Common Assessments by waiver of the use or enjoyment or any of the Common Elements or by abandonment of his or her Unit. All assessments not paid within thirty (30) days from the date they are due and payable become delinquent and are subject to interest charges as determined by Board resolution. The Board shall have the responsibility of taking prompt action to collect any unpaid assessments that become delinquent, and such action shall be any remedy available at law to the Association, including but not limited to the right to lien the Unit. Suit to recover a money judgment for unpaid assessments may be maintained without foreclosing or waiving the lien securing the same.

**6.1.4. Levying Assessments.** The Association shall levy assessments upon the Owners in the following manner and for the following reasons:

**6.1.4.1.** The Board shall establish and levy Common Assessments in the amount that the Board estimates will be sufficient to raise the funds needed to perform the duties of the Association during each fiscal year and to maintain reserve funds. The Board may not impose a Common Assessment or Additional Assessment upon any Unit that is more than twenty percent (20%) greater than the Common Assessment for the immediate preceding fiscal year, or levy Special Assessments that, in the aggregate, exceed five percent (5%) of the total budget of the Association for that fiscal year, without the vote or written consent of a majority of the voting interests of the Association. Notice of assessments, the amount thereof, and the purpose for which they were made, including an annual budget for expenditures and operation, and for regular Common Assessments, shall be served on all Owners pursuant to the Condominium Documents.

**6.1.4.2.** Expenses for maintenance or repairs of a Common Element or Unit due to the misuse or neglect of an Owner, his or her tenant(s), guest(s), or invitee(s) shall be charged to such Owner. Notice will be sent using the preferred method of contact or by certified mail to the owner regarding impending

repairs and that the Owner is responsible for the cost.

- 6.1.4.3. Assessments may be made for any purpose contemplated by the Condominium Documents and for any purpose set out in the Act.
- 6.1.5. In a voluntary conveyance of a Unit, the grantee is jointly and severally liable with the grantor for all unpaid charges against the latter for all assessments due and payable up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. Upon request, the Association shall furnish to an Owner or his or her title company or mortgage company written (mailed, emailed, faxed) verification of the amount of such assessment owing and whether the Owner has paid such assessment. The Association may require the advance of a reasonable processing fee for the issuance of such verification.
- 6.1.6. Common Assessments may also include a portion for reserves as the Board considers appropriate to adequately meet the costs of the future repair, replacement or additions to Common Element improvements and fixtures that the Association is obligated to maintain and repair.
- 6.1.7. **Liens and Foreclosures.** All sums assessed but unpaid that are chargeable to any Unit shall constitute a lien on such Unit superior to all other liens and encumbrances, except only for first mortgage liens, tax and special assessment liens on the Unit in favor of any assessing authority, and all unpaid amounts entitled to priority under the Act. To evidence such lien, the Association shall prepare a written notice of lien assessment setting forth the amount of such unpaid indebtedness, the amount of accrued interest and penalties thereon, the name of the Owner(s) of the Unit and the legal description of the Unit. Such notice shall be signed and verified by one of the officers of the Association and recorded in the public record. Such lien shall attach from the date of recording such notice. Such lien may be enforced by the foreclosure on the defaulting Owner's Unit by the Association in the same manner as provided by law for the foreclosure of mortgage on real property.

In any such foreclosure, the Owner shall be required to pay a reasonable rental for the Unit and the plaintiff in such foreclosure actions shall be entitled to the appointment of a receiver to collect the same. Suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosure or waiving the lien securing the same. In any such proceeding, the Owner may be required to pay the

costs, expenses, and reasonable attorney's fees incurred.

- 6.1.8. Bidding at Foreclosure.** The Board, on behalf of the other Owners, shall have the power to bid on the Unit at a foreclosure or other legal sale and to acquire and hold, lease, mortgage, convey, or otherwise deal with the same. During the period a Unit is owned by the Association following foreclosure, no right to vote shall be exercised on behalf of the Unit and no assessment shall be assessed or levied on the Unit. The Board may authorize the execution and recordation of a deed conveying title to the Unit and the deed shall be binding upon the Owner and their successors, and all other parties.
- 6.1.9. Mortgagee Liability for Unpaid Assessments.** Any first mortgagee who obtains title to a Unit through foreclosure will not be liable for more than six months of the Unit's unpaid regularly budgeted dues or charges accruing before the mortgagee's acquisition of title to the Unit.

**6.2. Expenses.**

- 6.2.1. Common Expenses.** These shall consist, among other items, of such amounts as the Board may deem proper for the operation, management and maintenance of the condominium project to the extent of the powers and duties delegated to it hereunder, and may include, without limitation, the cost of the Association's: maintenance, repair, and replacement responsibilities; management wages, fees, salaries, and other administrative expenses; common area utilities; common area landscaping, maintenance and replacement, common area cleaning, and supplies; snow and garbage removal; licenses and permits; banking, and legal fees; accounting fees; income taxes; insurance as required herein; capital improvements, if such capital improvements are made with the express written consent of seventy-five percent (75%) of the Owners (can be completed by vote and included in minutes or resolution); the creation and maintenance of an appropriate reserve funds; and any other expense designated as common by the Act or Condominium Documents, or as agreed to by the Owners.
- 6.2.2. Property Taxes.** Real estate taxes assessed against the Condominium shall be assessed against individual Units by the assessing authorities, and shall be paid directly to the assessing authority by the Owner. Each Owner's assessment shall include the Owner's fractional ownership interest in the common elements as set forth in this Declaration.

- 6.2.2.1.** The Association shall have no responsibilities to pay unpaid taxes that are liens against individual Units.

6.2.2.2. If any personal taxes are assessed against an Owner, such Owner shall be solely responsible for the payment of the taxes. If any personal taxes are assessed against the Association, such taxes shall be paid by the Association as a part of the Association's Common Expenses.

**6.3. Association Funds.**

6.3.1. **Common Working Fund.** This account is where all Assessments are deposited, less the amount designated for Reserve Funds. Common Expenses are generally paid from this account.

6.3.2. **Reserve Fund.** Reserve funds shall equal to no less than ten percent (10%) of the Association's current annual budget on a non-cumulative basis. The Board shall have the discretion to evaluate and determine the adequacy of the reserve fund at any time and adjust the same when necessary.

6.3.2.1. **Reserve for deferred maintenance.** This shall include funds for maintenance items which occur less frequently than annually, and for replacement of common property required on account of depreciation or obsolescence.

6.3.2.2. **Reserve for replacement.** This shall include, generally, funds for repair, reconstruction, and the like required because of damage, destruction, or other hazards. Upon the determination of each budget, the Board shall each year levy an assessment for the amount assessed against each Unit.

6.4. **Transfer Fee.** Whenever ownership of a Unit is transferred from one Owner to another, the Seller shall pay the Association at closing a nonrefundable transfer fee in an amount twice the current monthly assessment for the Unit, but not less than \$330.00, and said transfer fee shall be deposited into the Association's Common Working Fund.

**Article 7.**  
**Insurance and Casualty Losses**

**7.1. Association Insurance.**

7.1.1. The Association, acting through its Board or its duly authorized agent, shall obtain appropriate insurance coverage for all Association

real and personal property, and any personal or real property owned by another person or entity for which it has responsibilities of maintenance, upkeep, repair or any other legal obligation.

7.1.2. Except as otherwise provided in the Condominium Documents, premiums for all insurance shall be a Common Expense.

7.1.3. The Association shall also obtain, as a Common Expense: public liability insurance; worker's compensation insurance if necessary, and to the extent required by law; directors' and officers' liability coverage, if reasonably available; and flood insurance, if advisable.

**7.2. Owners Insurance.**

7.2.1. By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry blanket "risks of direct physical loss" property insurance on all structures located in any Unit, providing full replacement costs coverage less a reasonable deductible.

7.2.2. Each Owner further covenants and agrees that, in the event of damage to, or destruction of, structures on or comprising a Unit, the Owner thereof shall proceed promptly to repair or reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with the Condominium Documents.

7.2.3. Each Owner may obtain, at the Owner's expense, coverage for personal property within the Unit and liability insurance. The Association has no responsibility for obtaining or maintaining insurance to cover an Owner's personal property.

**7.3. Damage and Destruction.** Immediately after damage or destruction to all or any part of the Properties covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable law, regulations, or building codes.

**Article 8.**  
**Rentals and Leases**

The following restrictions on renting and leasing Units are required for the Property to meet Federal Housing Administration (FHA) guidelines in order that the Property remain eligible for FHA approval and the Units qualify for FHA-insured mortgages.

**8.1. Definitions.**

8.1.1. For purposes of these Condominium Documents, “rental” and “lease” or “renter,” “lessee,” and “tenant” may be used interchangeably.

8.1.2. “Active Lease” means the date when a Unit is considered occupied under the terms of the Lease or when the lessee may begin to inhabit a Unit, whichever is first.

8.1.3. “Lease” includes any form of occupancy of a Unit in which the Occupant is not the Owner, regardless of whether the occupancy is under a written lease or is for consideration. Ownership of a Unit by an entity is permitted, but an individual may not occupy said Unit, except pursuant to a written lease agreement that complies with the requirements of this Section and any rules and regulations that may be adopted by the Board.

8.2. **Occupancy Rates.** At least fifty-seven percent (57%) of the Units must be Owner- occupied, with the Unit identified as the Owner’s primary residence. In accordance with Article 11 and the Resolution adopted by the Board on September 12, 2017, during the construction and marketing of the 20 new Units to be built, at the time of the initial sale of those Units, the new Units shall be treated separately for purposes of the 57% owner occupancy rate. For the 12 new Units to be built in Building 6 (4615 Bembrick), up to 5 Units may be marketed and initially sold as rental Units; and for the 8 new Units to be built in Building 5 (4643 Bembrick), up to 3 Units may be marketed and initially sold as rental Units. Once those limits are reached, additional purchasers of the new Units who wish to rent their Unit will be added to the existing rental pool and waitlist. Once the 20 new Units are completed and sold by the Developer, all 80 Units will be subject to the same rental policy set forth in this Article and pursuant to any current Rules and Regulations enacted by the Board.

8.3. **Investor Ownership.** No investor/single entity may own more than six (6) Units. This limitation includes all rented and leased Units that a developer owns, including those units acquired during project acquisition. An investor/single entity Unit that is

owner occupied is not considered investor owned and is not subject to the investor requirements stated herein. Unoccupied and unsold units owned by the developer are not considered investor owned and are not subject to the investor requirements stated herein. Eligible non-profit and/or eligible governmental housing programs are not subject to the ownership interest limitation. An eligible governmental or non-profit program means a program designed to assist the purchase of low-or-moderate-income housing, including rental housing that is operated pursuant to a program established by Federal law, operated by a State or local government, or operated by an eligible non-profit organization as defined by the HUD's current guidelines.

**8.4. Responsibility and Liability.** No lease agreement, whether authorized by the Association or not, shall relieve an Owner from any responsibility or liability imposed on the Owner by the Condominium Documents.

**8.5. Application to Lease.**

**8.5.1.** An Owner who wishes to lease his or her Unit shall submit a written request stating as much to the Board Secretary or designee, and attach a blank lease to said request.

**8.5.2.** The Board Secretary or designee shall respond within five (5) business days of receipt of such a written request by notifying the Owner of approval of such request or informing the Owner the Unit has been placed on a waitlist if the maximum percentage of Units is already leased.

**8.5.3.** If a request to lease is approved, the Board Secretary shall provide written notification to the Owner of: the approval to lease; the date by which the Unit must be leased ("Eligibility Termination Date"); and the date by which a copy of the Active Lease must be on file with the Board Secretary.

**8.5.4.** The Association is not responsible for approving a prospective lessee.

**8.6. Lease Requirements and Terms of Eligibility to Lease.** The Board may adopt Rules and Regulations governing the eligibility and requirements of a Unit regarding leasing, including establishing minimum lease terms, Additional Assessments, and penalties or fines for enforcing this provision.

**8.7. Subletting.** Lessees shall not have the right to sublet a Unit without prior written approval from the Association and the Owner.



**Article 9.**  
**Changes, Repairs, and Maintenance**

- 9.1. Reconstruction and Repair.** If any part of the Property is damaged, the determination of whether or not it shall be reconstructed or repaired shall be made in the following manner:
- 9.1.1.** If a Common Element or the adjoining frontage area of a Building is damaged, such property shall be rebuilt or repaired if a Unit located within the Building is tenable, unless the owners unanimously vote that the Building shall be destroyed, not rebuilt, and each holder of a first mortgage lien on any Unit has given its prior written approval of such termination.
- 9.1.2.** If the Condominium is so damaged that no Unit located within any Building is tenable, the damaged property shall be rebuilt unless seventy-five (75%) percent or more of the Owners agree to destroy the Building and not rebuild by vote or in writing within ninety (90) days after the destruction.
- 9.2. Responsibility.** The responsibility for reconstruction and repair after casualty shall be the same as for maintenance and repair of Property. Specifically, the Owner shall be responsible for reconstruction and repair after casualty of the Unit. In all other instances, the responsibility of reconstruction and repair after casualty shall be that of the Association.
- 9.3. Caliber of Work.** Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original improvements, as available from the exhibits and amendments of these Condominium Documents, unless a change is permitted by the approval of at least fifty-one percent (51%) of the Owners voting at a meeting of the Association called for such purpose.
- 9.4. Payment of Costs.** If the Owner does not, within fifteen (15) days of the date of the damage or destruction to his or her Unit and the Limited Common Elements whose use is reserved to the Unit, advise the Association in writing of the Owner's determination to repair, reconstruct or rebuild, the Association may, in the manner provided in the Condominium Documents, determine to so repair, reconstruct or rebuild as the case may be, and in such event:
- 9.4.1.** The insurance proceeds payable on account of such casualty shall be utilized by the Association and the Owner to defray the expenses, and

- 9.4.2. To the extent that such insurance proceeds are inadequate to defray such expenses, the Association shall have a lien against the Unit to the extent of such inadequate coverage and shall levy special assessment in that amount against the Unit collectible as other assessments.
- 9.5. **Adequate Reconstruction or Repair.** In the event the Association so proceeds with repair, reconstruction, or rebuilding as contemplated, the determination of its Board as to what constitutes adequate repair, reconstruction or rebuilding shall be binding on the Owner and the Owner shall have no claim of any kind against the Association or any of its Officers, Directors, or representatives on account of such repair, reconstruction, or rebuilding, or on account of any claimed failure in that regard.
- 9.6. **Personal Property.** Neither the Association nor its contractors shall have a duty to replace or repair, nor any liability for damage or destruction, to any and all personal property located within a Unit, no matter what the cause or the damage or destruction.
- 9.7. **Maintenance, Upkeep, Repair, Alteration and Improvements.** Although the use of one shall not be deemed to exclude the applicability of another unless specifically so stated or required by the context, the following terms shall be defined as follows:
- 9.7.1. “Maintenance” is used generally to include repair, renovation, restoration, reconstruction, rebuilding or replacement as may be necessary to maintain the condominium property in the same condition as when constructed and completed by Developer;
- 9.7.2. “Alteration” relates to changes from such state other than maintenance; and
- 9.7.3. “Improvement” as distinguished from alteration relates generally to the addition of new and different structures, elements or facilities other than those referred to in these Bylaws.
- 9.8. **Maintenance by Association.**
- 9.8.1. All Parking Structures, Common Elements, and facilities, limited or general, shall be maintained by the Association as a common expense unless responsibility is otherwise imposed on the Owner by the Condominium Documents, including Section 9.9.
- 9.8.2. Incidental damage caused to a Unit through maintenance by the Association shall be repaired by the Association as a Common Expense.

- 9.8.3. The Association shall determine from time to time what maintenance may be required with respect to a particular Unit or Units. If an Owner defaults in his or her responsibilities of maintenance, the Association may assume the same and perform the maintenance as a common expense and levy a Special Assessment against the Unit and against the Owner, collectible as other assessments.
- 9.8.4. The Association shall arrange for all required snow removal, including removal from sidewalks and driveways, and all lawn care, landscaping and maintenance, to be paid as a Common Expense.
- 9.8.5. The Association may arrange for repair to Common Elements damaged by Occupants, guests, contractors or other known individuals where fault is known, and perform the maintenance as a Common Expense and levy a Special Assessment against the Unit and against the Owner or other responsible party.
- 9.9. Maintenance by Owner.**
- 9.9.1. Each Owner shall be responsible, after the Unit has been deeded to the Owner, and at the Owner's expense, to provide all maintenance of and within the Unit.
- 9.9.2. The Owner shall maintain at his or her expense any improvements or alterations subsequently added by him or her.
- 9.9.3. The Owner shall perform all maintenance required to be performed by the Owner without disturbing the rights of other Owners or Occupants.
- 9.10. Maintenance Involving More than One Unit.** If maintenance is required involving more than one Unit, the Association, in order to provide centralized direction, may assume responsibility therefore and provide for the same, in whole or in part, as a Common Expense assessable to the Owners of the Units involved.
- 9.11. Alteration or Improvement by Owner.** No Owner shall make any alteration of, or improvements to, a Unit or to any of the Common Elements, or remove any portion without written approval of the Board. In addition, no alteration or improvements to a Unit shall be made unless the Board approves the design and safety. No work by an Owner is permitted that may jeopardize the soundness of a building or impair any easement.
- 9.12. No Alterations to Proportionate Ownership Interest in Common Elements.** Alterations or improvements of a Unit, building, structure, or other property shall neither increase nor decrease the ownership interest in Common Elements

appurtenant to the Units.

- 9.13. Association Access.** The Association, or its duly authorized agents and contractors, shall have access to each Unit and any Limited Common Elements appurtenant thereto from time to time, during reasonable working hours, upon notice to the Owner thereof, as may be necessary for the maintenance, repair or replacement of any of the Common Elements. The Association or its agent shall also have access to each Unit and any Limited Common Elements appurtenant thereto at all times without notice as may be necessary to make emergency repairs to prevent damage to the Common Elements or to another Unit. It shall be the responsibility of each Owner to provide means of access, and if the Owner fails to provide such access, the Association may gain access in such manner as may be reasonable under the circumstances and shall not be liable to such Owner for any necessary damage to his Unit and any Limited Common Elements appurtenant thereto caused thereby, or for repair or replacement of any doors or windows damaged in gaining such access.

#### **Article 10.** **Amendments**

An amendment of this Declaration shall be made in the following manner:

- 10.1. Proposal to Amend.** At any regular, annual, or special meeting of the Association or Board, an amendment may be proposed as a resolution by at least twenty percent (20%) of the Owners, based on the Owner's allotted percentages, or by a majority (51% or greater) of the Board. Upon adoption of the resolution by a majority vote of the Owners present, in person or by proxy, or by a majority vote of the Board, the proposed amendment shall be made a subject for consideration at a special meeting or the next succeeding regular or annual meeting of the Association. Notice thereof, together with a copy of the proposed amendment shall be furnished to each Owner at least ten (10) days in advance of such meeting.
- 10.2. Approval of Proposed Amendment.** At the meeting during which the proposed amendment is a subject of consideration, the proposed amendment shall be deemed approved and adopted upon receiving the favorable vote of sixty percent (60%) of the total votes of the Owners, based on one (1) vote per Unit as described in Section 4.3. A written ballot for the amendment may be delivered to each Owner in the manner set forth in Section 12.3 and shall set forth: the amendment; the time when the written ballot must be returned to be counted as a vote; a place to allow the Owner to vote for or against the amendment by checking or otherwise indicating his or her choice; and instructions for returning

the ballot to the Association. If the amendment is approved and adopted, it shall be the responsibility of the Association to file the amendment with the Gallatin County Clerk and Recorder's Office. Upon filing the amendment, this Declaration shall so be amended.

- 10.3. **Certification of Amendment.** The President and Secretary of the Board shall have the authority to certify that the amendment was properly adopted, and shall have the authority to sign the amendment and have it acknowledged and filed.
- 10.4. **Separation from Bylaws and Rules and Regulations.** Unless expressly stated otherwise in the amendment or required by law, an amendment to this Declaration not affecting the subject matter of the Bylaws or rules and regulations shall not be considered an amendment of the Bylaws or rules and regulations.
- 10.5. **Copies to Be Distributed.** After an amendment has been adopted and recorded, a copy of said amendment shall be furnished to each Owner in the manner provided in Section 12.3.
- 10.6. **Amendments and Actions Requiring Unanimous Consent of Owners and Mortgagees.** The following amendments and actions shall require the unanimous consent of the Owners and their mortgagees:
  - 10.6.1 Except as provided in Article 11 of this Declaration, an amendment that changes any provision of the Condominium Documents equating membership with Unit Ownership, defining the total number of votes, or determining the proportional ownership interest in Common elements appurtenant to the Unit.
  - 10.6.2. Any amendment or action to terminate the legal status of the Condominium after substantial destruction or condemnation of the Condominium occurs, or for any other reason.
  - 10.6.3. Any amendment of a material adverse nature to mortgagees.
- 10.7. **Deemed Mortgagee Approvals.** Mortgagee approval of an amendment or action may be assumed when a mortgagee fails to submit a response to any written proposal for an amendment or action within 60 days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, return receipt requested.

- 10.8. **Amendments Requiring Developer Consent.** Any amendment to the provisions set forth in Article 11 shall require the written consent of the Developer.

#### **Article 11.**

##### **Right to Construct Additional Units or Buildings**

- 11.1. **Right to Construct Remaining Unbuilt Structures.** On March 27, 2017, BronzeLeaf Condominium Homeowner’s Association, Inc. recorded the Third Amendment to the Restated and Revised Declaration of Condominium for BronzeLeaf Condominiums, document number 2575529, of the Gallatin County Clerk and Recorder (“Third Amendment”). Pursuant to the Third Amendment, The Bryan Group, LLC (“Bryan”) is the successor Declarant and Developer of BronzeLeaf Condominiums, and the owner of the right to develop 20 remaining units on 2 building pad sites. The Association has approved the completion of the development pursuant to Bryan’s proposal.

- 11.1.1. Bryan may construct:

- One three-story building, containing twelve (12) Units, located within the proposed footprint identified on Exhibit A;
- One two-story building, containing eight (8) Units, located within the proposed footprint identified on Exhibit A;
- One carport located within the proposed footprint identified on Exhibit A; and
- Such improvements as the Board deems necessary to integrate the new Buildings into the overall design of the Property such as, but not limited to, landscaping, sidewalks, and parking spaces.

Collectively, the above-referenced buildings and improvements shall be referred to as the “Unbuilt Structures.”

- 11.1.2. Bryan shall have until December 31, 2019 to complete construction of the Unbuilt Structures. Construction of the Unbuilt Structures shall be completed in accordance with the site and floor plans attached hereto as Exhibits A and B, or in accordance with a floor plan and additional terms that are unanimously approved by the Board, using the same construction material as the existing Buildings. The Board may impose reasonable terms and conditions related to the staging of materials and use of the Property during the construction process.

- 11.1.3. Except as stated otherwise in any agreements with the Board or in these Condominium Documents, while Bryan has the right to

construct additional Unbuilt Structures, it is not required to do so.

**11.1.4.** As construction of the Unbuilt structures is completed, the Board shall have the unilateral right, without a vote from the Owners, to file supplements to this Declaration annexing the Buildings and Units, and revising the proportional ownership interest in the Common Elements accordingly. Each supplement shall attach a Site Plan and floor plans certified by a licensed engineer or architect.

**11.1.5.** After Bryan's initial right to construct expressed in Section 11.1.1 terminates, approval to continue development in one-year extensions, and the terms of such development as proposed by the Board, is subject to the approval by fifty-one percent (51%) of the Owners.

**11.2. No Right to Assign or Transfer/Failure to Develop.** Bryan may assign, convey, or transfer its right to construct the Unbuilt Structures upon the written consent of the Board, which shall not be unreasonably withheld. If Bryan or any successor Developer fails to construct any or all the Unbuilt Structures in the time specified, the space shall revert to open space and become a Common Element.

**11.3. Bryan's Activities and Unit Ownership**

**11.3.1.** Bryan shall have the fractional ownership interest and associated voting right for each of the 20 remaining units, built and unbuilt, as long as it owns such unit or the right to construct such unit.

**11.3.2.** Bryan is not liable for any dues or Common Expenses in connection with the Unbuilt Units or any Units that have been completed but are unoccupied for a period of three (3) months. After the first three (3) months, Units shall become subject to dues and Common Expenses and Bryan is responsible for payment of dues for each completed and unoccupied Unit until the Unit is sold.

**11.4. Indemnification.** Bryan shall indemnify, defend, and hold harmless the Association and its Owners from and against any loss, expense, liability, damage, or claim (including reasonable attorneys' fees) made or brought on behalf of a subject for personal injury, including death, that arises out of the construction of the Unbuilt Structures, or Bryan's negligence or willful misconduct and omission.

- 11.5. **Additional Improvements.** Except as provided herein, additional improvements to the Property in any form must be approved in writing by the Board prior to initiation.

**Article 12.**  
**General Provisions**

- 12.1. **Term.** This Declaration shall run with and bind the Properties, and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns for a term of fifty (50) years from the date this Declaration is recorded. After such time, this Declaration shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the year preceding each extension, agreeing to amend, in whole or in part, or terminate this Declaration, in which case this Declaration shall be amended or terminated as specified therein.
- 12.2. **Service of Process.** The name and address of the person designated to receive service of process for BronzeLeaf Condominium is the Registered Agent on file with the Montana Secretary of State.
- 12.3. **Notice and Material Distribution.** Any notice required by the Condominium Documents shall be in writing and shall be deemed to have been duly given when: (i) personally delivered to an Owner, the Primary Voter if a Unit is owned by multiple individuals or a legal entity, or the Owner's agent as identified in the Association's records; (ii) on the postmarked date notice is mailed through the United States Postal Service to the address on record with the Association, return receipt requested and postage prepaid; (iii) the date such notice is accepted by a nationally recognized courier (e.g., UPS or Federal Express) to be delivered to the address on record with the Association; or (iv) the date notice is sent by email or facsimile transmission (with written confirmation of successful transmission and the time and date thereof) to an Owner, Primary Voter of Units owned by multiple individuals or a legal entity, or the Owner's agent as identified in the Association records.

Owners may change any of their addresses (mailing or email) or facsimile numbers for notice purposes by delivering written notice of such change to the Association by any method by which notice may be given in accordance with this section. Such change of address or facsimile number is effective seven (7) days after the date notice is deemed to be given by the terms of this Section.

The mailing address of the Unit shall be the default address to which an Association shall provide all notices, unless a different address is on record



with the Association.

- 12.4. Interpretation.** The provisions of the Condominium Documents shall be liberally construed to effectuate the purpose of the Condominium Documents and to create Buildings, Units and Common Elements subject to, and under, the provisions of the Montana Unit Ownership Act.
- 12.5. Conflicting Provisions.** In the event of a conflict between the provisions of the Act or other laws of the State of Montana, and the Condominium Documents, the Act or other laws of the State or Montana shall govern. In the event of a conflict between the provisions of any one or more of the Condominium Documents, the following order of priority shall prevail and the provisions of the Condominium Document having the highest priority shall govern:
- A. The Articles of Incorporation
  - B. Second Revised and Restated Declaration of Protective Covenants, Conditions, and Restrictions for BronzeLeaf Condominiums, as may be amended from time to time.
  - C. First Restated and Revised Bylaws of the BronzeLeaf Condominiums.
  - D. Rules and regulations as may be adopted from time to time by the Board of Directors.
- 12.6. Remedies.** All remedies provided for in the Condominium Documents shall not be exclusive of any other remedies that may be, or are hereafter, available to the parties hereto as provided by law.
- 12.7. Rights Cumulative.** All rights, remedies and privileges granted to the Association or any Owner(s) pursuant to any terms, provisions, covenants or conditions of the Condominium Documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute in election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.
- 12.8. Hearings and Due Process.** In the event an action is taken by the Association against any individual Owner to enforce any part of the Condominium Documents, or any rule or regulation properly adopted by the Association, said Owner shall be afforded the protection of due process, which includes adequate notice in writing pursuant to Section 12.3, of any default with a reasonable time to cure the default, as well as the opportunity to present witnesses and cross-examine opposing witnesses in a hearing setting in front of the Hearing Committee established in accordance with the Bylaws, that results in a written

decision from the Hearing Committee.

- 12.9. Severability.** The provisions hereof shall be deemed independent and severable and the invalidity or partial invalidity or unenforceability of any other provisions shall not affect the validity or enforceability of any other provision hereof.
- 12.10. Binding.** Except as otherwise provided herein, this Declaration shall be binding upon and shall inure to the benefit of the Association and each Owner, and the heirs, personal representatives, successors, and assigns of each.
- 12.11. Warranties.** The Association expressly makes no warranties or representations concerning the Property, the Units, the Condominium Documents, or deeds of conveyance except as specifically set forth therein; and no one may rely upon such warranty or representation not so specifically expressed therein. Estimates of Common Expenses are deemed accurate, but no warranty or guarantee is made nor is intended, nor may one be relied upon.
- 12.12. Mortgagees' Rights. Mortgagees of record shall have the following additional rights under this Declaration:**
- 12.12.1. The right to examine the books and records of the Association in regard to matters relating to the Unit upon which the mortgage is imposed, upon written request specifically designating the books and records it desires to examine, and at a reasonable time and place for examination. The mortgagee shall pay any costs the Association incurs as a result of such examination, including but not limited to costs of copies and reasonable fees for an accountant's or manager's time.
- 12.12.2. The right to timely written notice of any condemnation or casualty loss that affects either a material portion of the Condominium or the Unit securing its mortgage.
- 12.12.3. The right to timely written notice of any 60 day delinquency in the payment of assessments or charges owed by the owner of any unit on which it holds a mortgage.
- 12.12.4. The right to timely written notice of any lapse, cancellation, or material modification of any insurance policy maintained by the Association.
- 12.12.5. The right to timely notice of any proposed action that requires the consent of a specified percentage of mortgagees.
- 12.13. Applicable Law.** The Condominium Documents are to be interpreted pursuant to Montana law. Moreover, Title 70, Chapter 23 of the Montana Code Annotated ("Unit Ownership Act-Condominium") is incorporated herein, and by



