

Amended and Restated Declaration

Summary of Changes

General

All references to the “Declarant” throughout the document have been removed. This related to the original builder and no longer applies. Additional clauses at the beginning of the document explain why the Declarant is being removed and why the document is being amended.

Definitions

Changes correct the Association’s name, address where to find the Building Plans and Plat map, remove the Declarant, remove items not applicable to our property, and remove the concept of a Special Amendment (not requiring owner vote).

Article II Association of Unit Owners

Section 2.01 (Membership, Duties and Obligations): Correct the Association’s name and remove reference to being a nonprofit. The Association doesn’t act as for-profit entity – all amounts received by the Association are used for the benefit of the Association. But it is not registered as a nonprofit under tax regulations and therefore should not be referenced as such.

Section 2.02 (Voting Rights): Removes the requirement for written notice to the Association of who will vote on behalf of a Unit owned by more than one person.

Section 2.03 (Declarant Right to Vote): Removed because it references the Declarant.

Section 2.04 (Architectural Control Committee): Added language to allow the Board to fulfill these duties if no committee exists.

Article III Description

Section 3.01 (Description of Buildings): Removes reference to the Plat map and Building Plans being attached.

Section 3.02 (Description of Units): Includes drywall in the definition of the Unit.

Section 3.03 (Limited Common Elements): Clarifies the balconies are Limited Common Elements as well as certain areas within the 1405 Building, including the underground parking area, hallways, stairways and elevator.

Section 3.04 (General Common Elements): Clarifies that Common Elements include parking areas, roadways and sidewalks referenced here are those not leading to a particular Building/Unit (because those are included under Limited Common Elements.) Removes items not applicable to our Association.

Article IV Allocated Interests

No changes

Article V Maintenance, Alteration and Improvement of Condominium

Section 5.01 (Responsibility of Unit Owners): Clarifies that reference to the Condominium includes Units, Common Elements and Limited Common Elements.

Section 5.02 (Responsibility of Association): Clarifies that the Association is responsible for the painting, repairing, restoration, and general maintenance of Common Element doors and windows, not all doors and windows.

Section 5.03 (Repair Standards): No changes

Section 5.04 (Alterations to a Unit): No changes

Section 5.05 (Exterior Alterations): Removed reference to the Declarant.

Section 5.06 (Damage to Units, Common Elements): No changes

Section 5.07 (Hours of Construction): Clarifies that construction activities includes any remodeling or maintenance that causes excess noise.

Article VI Common Expenses, Assessments and Taxes

Section 6.01 (Common Expenses): Removes language on when a Unit becomes a Unit from the original construction.

Section 6.02 (Payment of Assessments): Allows for the inclusion of late fees and actual attorney's costs as the responsibility of the Owner in relation to Assessments. A sentence prohibiting the personal liability of one Owner to pass to a successor Owner was removed because it conflicts with State Statute.

Section 6.03 (Assessment for Common Expense): No changes

Section 6.04 (Purchaser of a Unit): No changes

Section 6.05 (Enforcement of Lien): Allows for the inclusion of late fees and actual attorney's costs in the amount of a lien claim.

Section 6.06 (Real Estate Taxes): Removal of reference to the Declarant. Added language allows the Association to pay delinquent property taxes on behalf of a Unit Owner to protect its lien position and to specially assess the amount paid by the Association, along with interest and penalties, back to the Owner.

Article VII Use of Condominium

No changes except to remove reference to the Declarant.

Article VIII Restriction on Use, Occupancy and Transfer

Section 8.01 (Limitations): Removes reference to the Declarant.

Section 8.02 (Declarant's Right to Transfer): Removed – related to Declarant.

Section 8.03 (Restriction on Leasing): Updates to reference the Leasing language in the Bylaws and removes all Leasing language in this document.

Section 8.04 (Use as an Office): No changes

Section 8.05 (Unlawful Use): No changes

Section 8.06 (Restricted Use): Removes the limitation on storing children's toys and baby carriages from Common Elements. Adds language disallowing any device with an open flame to be used on decks, balconies or patios or within 10 feet of any building. This is required by City of Waukesha ordinance.

Section 8.07 (Animal Restrictions): Redefines Pets as Animals. Defines "cats" as "house cats". Adds fish and small caged rodents as allowed animals. Limits the numbers of dogs per Unit to two, and only one dog may be over 50 pounds. Restricts Owners from having Rottweiler, Doberman Pinscher and Pitt Bull breed because these can negate the insurance liability coverage. Limits Owners with fish to a 20 gallon tank. Add a requirement that dog must be spayed or neutered by two years of age.

Section 8.08 (Parking): No changes

Article IX Repair or Reconstruction

Section 9.01 (Repair/Reconstruction of Condo): Reduces required vote of Owners to 67% (from 80%) to make repairs if Condominium is destroyed or damaged beyond the amount of insurance coverage. Requires vote be taken within 60 (from 90) days.

Section 9.02 (Eminent Domain): Similar reduction in Owner vote requirement to 67% (from 80%).

Section 9.03 (Assoc. as Designated Agent): No changes

Article X Easements and Encroachments

Section 10.01 (Utility Easements): Removed references to Declarant.

Section 10.02 (Construction Easement): Removed; no longer applicable.

Section 10.03 (Easement to Facilitate Sales): Removed; no longer applicable.

Section 10.04 (Support Easement): No changes

Section 10.05 (Common Elements Easement): No changes

Section 10.06 (Owner's Grant of Easement): No changes

Section 10.07 (Access Easements): Removed; no longer applicable.

Section 10.08 (Noise & Aviation Easement): No changes

Section 10.09 (Binding Effect): Change to indicate Board of Directors will act on behalf of the Association rather than the Declarant.

Section 10.10 (Encroachments): No changes

Article XI Mortgages

Section 11.01 (Separate Mortgages): No changes

Section 11.02 (Mortgagees): Minor wording change

Section 11.03 (Roster of Mortgagees): Minor wording change

Section 11.04 (Liens): Minor wording change referencing the Act

Section 11.05 (Mortgagee in Possession): Minor wording change referencing the Act

Section 11.06 (Rights of Mortgagees): Minor wording change

Section 11.07 (Restrictions on Actions of the Assoc): Add language to require a 67% affirmative vote from Unit Owners to encumber the Common Elements or assign future income of the Association.

Section 11.08 (Application and Effect): Removed outdated language related to the Declarant.

Section 11.09 (Amendment to Declaration): Removed because it conflicts with state statutes.

Section 11.10 (Priority of First Mortgagees): No changes

Article XII Insurance

Section 12.01 (Property Damage Insurance): Updated to ensure the Association is in compliance with the insurance requirements in the condominium act and to maximize the amount of insurance available every time there is an insurable loss. The language allowing Mortgagees to receive a copy of the Association's insurance certificate within 10 days of a written request has been removed because it is not required by law so there is no need to keep the 10 day deadline in.

Section 12.02 (Proceeds of Insurance): No changes

Section 12.03 (Additional Insurance): This section has been added to ensure that all necessary components of the Association's insurance contract are included when insurance is obtained or changed. This section requires Worker's Compensation insurance, Liability insurance of at least \$2,000,000 per occurrence, Directors and Officers insurance, and Fidelity insurance.

Section 12.04 (Insurance Deductible): Removed separate language on fidelity bonds. Added language to clarify that the responsible party in a claim will be responsible for the insurance deductible of the Association. Specifically, losses originating in a Unit will be the financial responsibility of the Unit Owner up to the Association's insurance deductible amount. This language aligns with a clause added separately to the Declaration and shared with all Owners in 2021.

Section 12.05 (Separate/Unit Owner Insurance): Language was added to clarify the insurance coverages that each Unit Owner is required to include in their personal insurance policy. This is for the protection of Unit Owners to ensure they have appropriate minimum coverage.

Article XIII Prohibition on Partition of Common Elements

No changes

Article XIV Disclaimer of Liability of Association

No changes except to remove reference to the Declarant.

Article XV Amendment to Declaration

Section 15.01 (Amendment): This section determines how amendments to the Declaration occur. Reference to the Declarant has been removed. The percentage of Unit Owners required to approve changes to the Declaration has been changed to 67% (from 75%) for two reasons: (1) to align with statutory requirement and (2) to align with the vote percentage required to change the Bylaws. Implied consent (or negative consent) language has been removed, meaning Unit Owner have to place a vote in the affirmative in order to approve changes to the Declaration. Language has been added to allow electronic delivery of the amendment.

Section 15.02 (Special Amendments): This section was removed because it related solely to the Declarant.

Article XVI Termination of Condominium

Minimal wording change referencing the Act.

Article XVII Additional Provisions

Section 17.01 (Rights of Action/Claims and Remedies): Removed reference to the Declarant. Added language stating that claims must go to arbitration with costs split between the Owner and the Association. Claims must commence with the arbitrator within one year of the occurrence of the claim. The prevailing party is entitled to recover their attorney's fees and costs. Actual damages incurred by the Association may be assessed to a Unit Owner.

Section 17.02 (Waiver): No changes

Section 17.03 (Severability): No changes

Section 17.04 (Captions): No changes

Section 17.05 (No Obligations): Removed as it relates solely to the Declarant.

Section 17.06 (Number and Gender): No changes

Section 17.07 (Registered Agent): Updated to remove the original registered agent and to point to the registered agent the Association has on file and lists Ogden & Company, the current registered agent.

The final statement indicates that the Second Amended and Restated Declaration was approved by affirmative vote of 75% of Unit Owners, as is required by the Declaration prior to the changes.